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Vol. I

TRANSCRIPT OF RECORD

(Pages 1 to 115)

Supreme Court of the United States

OCTOBER TERM, 1944

No. 189

THE CONNECTICUT LIGHT AND POWER COMPANY, PETITIONER,

vs.

FEDERAL POWER COMMISSION

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

PETITION FOR CERTIORARI FILED JUNE 23, 1944.

CERTIORARI GRANTED OCTOBER 9, 1944.

APPENDIX TO BRIEF FOR PETITIONER.

VOLUME I, pages 1 to 115.

IN THE

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

No. 8341.

THE CONNECTICUT LIGHT AND POWER COMPANY,
Petitioner,

v.

FEDERAL POWER COMMISSION,
Respondent.

ON PETITION TO REVIEW ORDER OF FEDERAL POWER COMMISSION ENTERED MAY 15, 1942.

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PETITION FOR REVIEW OF ORDER OF FEDERAL POWER COMMISSION ENTERED MAY 15, 1942

IN THE

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

No. 8341.

THE CONNECTICUT LIGHT AND POWER COMPANY, PETITIONER,

v.

FEDERAL POWER COMMISSION, RESPONDENT.

To the Honorable the Justices of the United States Court of Appeals for the District of Columbia:

Petitioner, The Connecticut Light and Power Company, being aggrieved by an Order of the Federal Power Commission, hereinafter called the "Commission", dated May 15, 1942, hereby files in this Court, pursuant to Section 313 of the Federal Power Act, its written petition to this Honorable Court to review said order, and upon such review to set aside and annul or to modify said Order. As a basis for this petition, Petitioner respectfully shows:

I. On January 7, 1941, the Commission entered an Order directing the Petitioner to show cause

> "(1) Why it is not now, and has not been since August 26, 1935, a public utility within the meaning of the Federal Power Act;

(2) Why it has failed or refused to comply with the Commission's Order No. 42, adopted June 16, 1936, and adopt the Uniform System of Accounts prescribed thereby;

(3) Why it has failed to comply with Electric Plant Accounts Instruction 2-D of the Commission's Uniform System of Accounts, and with the Commission's Order adopted May 11, 1937;"

and in relation to certain other matters specified in said Order to Show Cause.

II. On June 6, 1941, Petitioner appeared specially and filed an answer to said Order to Show Cause. Hearings were held before a Trial Examiner of the Commission. The Commission, on May 15, 1942, promulgated its opinion No. 75 containing findings and an order requiring compliance by Petitioner with said Orders mentioned in the above quotation from the Order to Show Cause and compliance with other Orders supplemental to said Order No. 42 and accounting requirements prescribed thereby "applicable to it as a public utility within the meaning of that term as used in that Act", as of the effective dates of such Orders and requiring Petitioner, within ninety days from May 15, 1942, to "file the data and information required by Electric Plant Accounts Instruction 2-D of the Uniform System of Accounts", and the aforesaid Order of May 11, 1937.

III. On June 13, 1942, Petitioner filed with the Commission a Petition for Reopening the Proceedings to Take Further Evidence, and a Petition for Rehearing and Stay of said Order of May 15, 1942. On June 23, 1942, the Commission entered its Order denying the Petition for Reopening the Proceeding to Take Further Evidence and modifying the said Order of May 15, 1942, by granting Petitioner a stay of said Order, if a proceeding for a review of said Order should be commenced, until sixty days after the final judg-

ment and decree of the reviewing Court should become finally effective affirming said Order, and otherwise denying said Petition for Rehearing and Stay of Order.

IV. The questions in the case are whether Petitioner is a "public utility" within the meaning of the Federal Power Act, and whether it has been such a "public utility" at any time since August 26, 1935, and to what extent, if any, it should be required to comply with the aforesaid orders.

V. The Commission held that Petitioner was a "public utility" under the provisions of Section 201 of the Federal Power Act. Paragraph (e) of that section defines a "public utility" as "any person who owns or operates facilities subject to the jurisdiction of the Commission under this Part." Paragraph (b) of that section provides that "the Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, but shall not have jurisdiction, except as specifically provided in this Part and the Part next following, over facilities used for the generation of electric energy or over facilities used in local distribution or only for the transmission of electric energy in intrastate commerce." The term "such transmission or sale" in paragraph (b) refers to the previous sentence in that paragraph, which provides that "the provisions of this Part shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce, but shall not apply to any other sale of electric energy . . ." Paragraph (a) of said section declares that Federal regulation of that part of the business of transmitting and selling electric energy for ultimate distribution to the public "which consists of the transmission of electric energy in interstate commerce and the sale of such energy at wholesale in interstate commerce is necessary in the public inter-

est, such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States."

VI. The Petitioner has contended and now contends that

(1) At no time since August 26, 1935, has Petitioner been a "public utility" within the meaning of Part II of the Federal Power Act;

(2) Since February, 1941, or June, 1941, Petitioner has not been a public utility within the meaning of Part II of the Federal Power Act;

(3) At no time since August 26, 1935, has Petitioner owned or operated facilities subject to the jurisdiction of the Commission under Section 201 of said Act;

(4) Since February, 1941, or June, 1941, Petitioner has not owned or operated facilities subject to the jurisdiction of the Commission under Section 201 of said Act;

(5) At no time since August 26, 1935, has Petitioner engaged in business which consists of the transmission of electric energy in interstate commerce or the sale of such energy at wholesale in interstate commerce;

(6) Since February, 1941, or June, 1941, Petitioner has not engaged in business which consists of the transmission of electric energy in interstate commerce or the sale of such energy at wholesale in interstate commerce;

(7) Petitioner has not at any time since August 26, 1935, been subject to the accounting orders and requirements of the Federal Power Commission;

(8) Since February, 1941, or June, 1941, petitioner has not been subject to the accounting orders and requirements of the Commission;

(9) Petitioner's accounting and all of its business and facilities are, and at all times since August 26, 1935, have been subject in all respects to regulation by the State of Connecticut and the Public Utilities Commission of that State.

(10) Petitioner's accounting was at all times prior to April, 1941, subject to regulation of any accounting requirements which the Securities and Exchange Commission desired to promulgate under Section 15 of the Public Utility Holding Company Act of 1935.

VII. The points on which the Petitioner intends to rely are:

(1) The failure of the Commission to furnish the Petitioner with a copy of the Trial Examiner's report, as requested in its Petition for Rehearing filed with the Commission;

(2) The failure of the Commission to allow Petitioner to adduce additional evidence, as requested in its Petition for Reopening the Proceedings to Take Further Evidence;

(3) The failure of the Commission to grant a rehearing to Petitioner, as requested in its Petition for Rehearing filed with the Commission; and

(4) All of those points specified in the extracts from the Petition for Rehearing filed with the Commission which are copied in "Exhibit A" annexed hereto and hereby made a part hereof.

WHEREFORE, Petitioner prays:

(1) That this Court review said Order of the Commission dated May 15, 1942;

(2) That upon such review, this Court set aside and annul said Order in whole; or

(3) That upon such review, this Court modify said Order so as to provide that since February, 1941, or June, 1941, Petitioner has not been a "public utility" within the meaning of said Act or subject to the accounting orders and requirements of the Commission;

(4) That this Court give leave to Petitioner to adduce additional evidence before the Commission;

(5) That a copy of this Petition for Review be served upon a member of the Federal Power Commission, as prescribed by law;

(6) That this Court grant such other and further relief as may be just and proper in the premises.

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By its Attorneys,

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EXHIBIT A.

EXTRACTS FROM PETITION FOR REHEARING FILED WITH FEDERAL POWER COMMISSION, SPECIFYING ERRORS NOW RELIED UPON IN PETITION FOR REVIEW BY THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

The Respondent [before the Commission, Petitioner here]* complains that the Commission committed error in these proceedings to the prejudice of the Respondent in entering said Order of May 11, 1937 and in making the findings and reaching the conclusions hereinafter specified and in failing to make findings and rulings of law as hereinafter specified. The Respondent specifies in this petition the following matters claimed to have been erroneously decided or omitted. In support of this application it relies upon all grounds hereinafter set forth.

The Commission erred:

1. In finding that electric energy in substantial amount was purchased by the Borough of Groton or by Fishers Island or that the amount which the Respondent knew was transmitted to Fishers Island was substantial, and in so far as it made other similar findings or rulings with respect to this matter.

2. In finding that the Respondent owned and operated facilities at or near Groton and Montville and between those places "used for the transmission of the electric energy sold to Fishers Island * * * as distinguished from local distribution thereof."

3. In finding that the facilities owned and operated at or near Groton and Montville "were facilities for the transmission and sale at wholesale of electric energy in

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* The Respondent before the Commission is the Petitioner in this Court, and consequently wherever "Respondent" appears in Exhibit A it refers to the Petitioner before this Court.

interstate commerce, and Respondent was, by virtue of its ownership and operation of such facilities, a public utility within the meaning of that term as used in the Federal Power Act", and in so far as it made other similar findings or rulings with respect to this matter.

4. In finding that in the operation of the Connecticut Valley Power Exchange "electric energy which is transmitted from Massachusetts has regularly, frequently, for substantial periods of time, and in substantial amounts been, and continues to be, supplied to The Connecticut Power Company's South Meadow substation and to its C.P. 1 and C.P. 2 lines by means of the C-3 and D-4 lines, substation facilities, and other appurtenant facilities", and in so far as it made other similar findings or rulings with respect to this matter.

5. In finding that the electric energy purchased by the Respondent for its East Hampton District in Connecticut "regularly, frequently, and for substantial periods of time included electric energy in substantial amounts transmitted from Massachusetts", and in so far as it made other similar findings or rulings with respect to this matter.

6. In finding that "from January 1, 1937, to June 30, 1939, both inclusive, the Respondent continuously owned and operated facilities in its East Hampton District and between that district and the aforesaid Pole 110 used for the transmission of electric energy purchased as aforesaid from The Connecticut Power Company, as distinguished from local distribution thereof", and in so far as it made other similar findings or rulings with respect to this matter.

7. In finding that "from January 1, 1937, until June 30, 1939, both inclusive, the Respondent owned and operated facilities in its East Hampton District, and between that district and the aforesaid Pole 110, for the transmission of electric energy, transmitted from the State of Massachu-

setts and consumed in the State of Connecticut by persons other than the transmitter thereof, which facilities were facilities for the transmission of electric energy in interstate commerce, and Respondent was, by virtue of its ownership and operation of such facilities, a public utility within the meaning of that term as used in the Federal Power Act", and in so far as it made other similar findings or rulings with respect to this matter.

8. In finding that the electric energy purchased by the Respondent for its Winsted District "regularly, frequently and for substantial periods of time included electric energy in substantial amounts transmitted from Massachusetts", and in so far as it made other similar findings or rulings with respect to this matter.

9. In finding that "from January 1, 1937, to June 17, 1941, both inclusive, the Respondent continuously owned and operated facilities in its Winsted District and between that district and the aforesaid 2,300 volt bus of The Torrington Electric Light Company used for the transmission of electric energy purchased, as aforesaid, from The Torrington Electric Light Company, as distinguished from local distribution thereof," and in so far as it made other similar findings or rulings with respect to this matter.

10. In finding that "from January 1, 1937, to June 17, 1941, both inclusive, the Respondent owned and operated facilities in its Winsted District, and between that district and the aforesaid 2,300 volt bus of the Torrington Electric Light Company, for the transmission of electric energy transmitted from the State of Massachusetts and consumed in the State of Connecticut by persons other than the transmitter thereof, which facilities were facilities for the transmission of electric energy in interstate commerce, and Respondent was, by virtue of its ownership and operation of such facilities, a public utility within the meaning of that

term as used in the Federal Power Act", and in so far as it made other similar findings or rulings with respect to this matter.

11. In finding that the Respondent has purchased and has continued to purchase electricity for its Bristol District which "regularly, frequently, and for substantial periods of time, has included electric energy in substantial amounts transmitted from Massachusetts by means of the aforesaid substation facilities of The Connnecticut Power Company, the C-3, D-4, C.P. 1, C.P. 2, and tap lines, and appurtenant facilities", and in so far as it made other similar findings or rulings with respect to this matter.

12. In finding that "from January 1, 1937, to the present time the Respondent has continuously owned and operated substation facilities in Bristol used for the transmission of electric energy, purchased as aforesaid from The Connecticut Power Company, as distinguished from local distribution thereof", and in so far as it made other similar findings or rulings with respect to this matter.

13. In finding that "from January 1, 1937, to the present time the Respondent has continuously owned and operated and now owns and operates facilities in Bristol, Connecticut, for the transmission of electric energy, transmitted from the State of Massachusetts and consumed in the State of Connecticut by persons other than the transmitter thereof, which facilities were and are facilities for the transmission of electric energy in interstate commerce and Respondent was and continues to be, by virtue of its ownership and operation of such facilities, a public utility within the meaning of that term as used in the Federal Power Act", and in so far as it made other similar findings or rulings with respect to this matter.

14. In so far as it found or held in its Opinion that on or prior to August 26, 1935, the Respondent did not cut

all connections over which interstate energy flowed over its facilities.

15. In so far as it found or held in its Opinion that the Respondent knew or believed that it was a public utility within the meaning of the Federal Power Act.

16. In so far as it found or held in its Opinion that the Respondent impliedly recognized that it had been subject, or at least that it probably would be held to be subject, to the regulatory provisions of the Act; *i.e.*, that there was interstate energy supplied at any of its interconnections and that it owned or operated facilities for the transmission of that energy.

17. In so far as it found or held in its Opinion that electric energy generated in Massachusetts was supplied to the Respondent for distribution and sale to its customers in Connecticut, sometimes mixed with energy generated in Connecticut and sometimes not mixed.

18. In so far as it found or held in its Opinion that the Respondent owned and operated facilities for "the transmission of interstate energy" and in so far as it made any subsidiary findings or adopted any reasoning in support of this conclusion.

19. In so far as it found or held in its Opinion that the words "facilities for transmission", as used in the Act, include any of the facilities of the Respondent which were held or found to be facilities for transmission of electric energy in interstate commerce, and in so far as it made any subsidiary finding or adopted any reasoning in support of this conclusion.

20. In so far as it found or held that transformers do not bring about such a change in the identity or form of electric energy that they mark the terminus of interstate commerce in electric energy which crosses the state boundary.

21. In so far as it found or held in its Opinion that any transmission of electric energy from points of generation in Massachusetts to points of utilization in the system of the Respondent in Connecticut was demonstrable, and in so far as it made subsidiary findings or adopted reasoning in support of this conclusion, and specifically all of the findings, reasoning and holdings contained in that part of the Opinion beginning with the last paragraph on page 24 of the Opinion with the words "Finally, we notice the contention" and ending before the first full paragraph on page 28 with the words "worthless for the practical purpose of administering the Federal Power Act."

22. In so far as it found or held that there was no excuse for the failure of the Respondent to comply with Order No. 42 and other orders applicable to "public utility" as that term is used in the Federal Power Act.

23. In concluding that the Respondent is a public utility within the meaning of that term as used in Parts II and III of the Federal Power Act and in not concluding the contrary.

24. In concluding that the Respondent has at any time since August 26, 1935, been a public utility within the meaning of that term as used in Parts II and III of the Federal Power Act, and in not concluding the contrary.

25. In so far as it found or held that the Respondent owns or operates any facilities for the transmission of electric energy in interstate commerce or the sale of such energy at wholesale in interstate commerce.

26. In so far as it found or held that the Respondent has at any time since August 26, 1935, owned or operated any facilities for the transmission of electric energy in interstate commerce or the sale of such energy at wholesale in interstate commerce.

27. In so far as it found or held that any facilities owned or operated by the Respondent are used in interstate commerce.

28. In so far as it found or held that any facilities owned or operated by the respondent have been used in interstate commerce at any time since August 26, 1935.

29. In failing to find, as requested:

> "The business of the respondent consists principally of the production, purchase, transmission, distribution, and sale of electricity and gas for residential, commercial, industrial and municipal purposes in the State of Connecticut. The territory served by the company with electricity or gas, or both, covers approximately 3,235 square miles, with a population of about 703,000 based on the 1940 Federal Census, not including the territory served by other Connecticut utilities purchasing substantially all of their requirements from the respondent. Electric service is supplied by the respondent in 107 towns, cities or boroughs of Connecticut with a total population of about 660,000, based on the 1940 Census, not including about 130,000 served by other Connecticut utilities purchasing substantially all of their electric requirements from the respondent. The territory served directly by the respondent covers a substantial part of the State of Connecticut, including the cities of Bristol, Meriden, New Britain, Norwalk, Putnam, Rockville, Waterbury, Willimantic, and Winsted and the town of Greenwich. Electric energy is supplied at wholesale to other utilities. Approximately 80% of the electric energy requirements of the respondent is produced by it, the balance being purchased from other companies." (Stipulation, paragraphs 4–5)

30. In failing to find, as requested:

> "Since Aug. 26, 1935, the respondent has owned or operated no property outside of Connecticut. It has owned or operated no line which crosses the Connecticut boundary. It has owned or operated no line connecting at the Connecticut state line with the line of any other utility. It has had no contract with any party outside of the state of Connecticut for the purchase or sale of electric energy. It has had no contract to deliver electric energy outside of Connecticut, or to receive electric energy outside or from outside of Connecticut. It has not bought or sold any electric energy outside of Connecticut. It has had no contract or arrangement calling for delivery of electric energy to any other com-

pany or utility at the state line or for the receipt of energy from any other company or utility at the state line." (Campbell, R. 36–45)*

31. In failing to find, as requested:

"The respondent has sold electric energy at wholesale to the Borough of Groton, a municipal corporation in Connecticut. This Borough has the charter right to purchase electric energy and distribute it within certain limits." (Tiffany, R. 324, 325, 328, 329–332, 354; Ex. 77)

32. In failing to find, as requested:

"The energy sold to the Borough of Groton was transmitted over a 33,000 volt line owned and operated by the respondent and connected with its generating plant at Montville, Connecticut. This energy was all metered at 33,000 volts at a place in Groton called Trails Corners. It was all delivered at 33,000 volts at points in Groton. One point of delivery was Trails Corners substation, where some of the energy went through a local distribution substation owned by the Borough after being transformed to 2300 volts. Thereafter this energy was distributed to numerous customers of the Borough located on its distribution system. The 33,000 volt line continued from Trails Corners, to a substation (called the Groton Long Point substation) which has, since Nov. 15, 1935, been owned by the Borough of Groton. There transformers owned by the Borough stepped the energy down to 6600 volts, and it was carried on lines owned by the Borough to a small substation, near the shore in Groton, owned by the Borough. From that substation some of the energy was distributed to local customers in Groton Long Point, after being transformed to 2300 volts. At this substation there were also connections with two 6600 volt cables which went under Fishers Island Sound for

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* References such as this are to testimony of the witness named and to pages in the official stenographer's report of the proceeding before the Trial Examiner.

[The above, including the above footnote, is all copied exactly from Exhibit A, attached to the petition for review. The page numbers on pages 14–33 hereof are those given by the reporter and consequently do not correspond with the pagination of the official record filed in this Court.]

a distance of about two miles to Fishers Island, which is part of New York. At this point of connection in Connecticut, the Borough until February, 1941, delivered some electric energy to a corporation which distributed electric energy on Fishers Island." (Tiffany, R. 354–358, 426–430, 438–439, 445; Thomas, R. 1361–1362; Stipulation, pp. 145–146)

33. In failing to find, as requested:

"The energy purchased by the Fishers Island Company from the Borough amounted to about one-third of the total amount of energy purchased by the Borough from the respondent, but to only about 1/5 of 1% of all of the energy supplied by the respondent in each year to all of its customers." (Tiffany, R. 464–465; Hughes, R. 2245–2251)

34. In failing to find, as requested:

"The South Meadow substation of the Connecticut Power Company is adjacent to the large steam generating plant of the Hartford Electric Light Company, known as the South Meadow plant. Nearby is the Dutch Point plant, a steam plant of the same company, used largely for reserve purposes. In addition, this company has several smaller plants in the vicinity of Hartford. All of its plants are connected electrically to the C.P. lines 1 and 2." (Mayott, R. 2535)

35. In failing to find, as requested:

"The Connecticut Power Company is a corporation entirely separate from the respondent. The Connecticut Power Company and the Hartford Electric Light Company were not affiliated in any way with the respondent. The respondent owned no stock in either of these companies, and neither of them owned any stock in the respondent. No person who was at any time an officer or director of the respondent served simultaneously in a similar capacity either the Connecticut Power Company or the Hartford Electric Light Company." (Kramarsik, R. 2545–2548)

36. In failing to find, as requested:

"For the Torrington-Winsted area, the respondent purchased energy from the Torrington Electric Light

Company. During most of the time, this was supplied under contract of which Ex. 11 is a copy. This contract recited that the Torrington Company obtained its supply either from its own plant or from the Connecticut Power Company, and that it might supply the respondent from either source. The charge was based upon the price paid by the Torrington Company to the Connecticut Power Company, regardless of the source from which the supply should come. By letters dated March 19, 1941 and March 21, 1941, which appear in the Record at pp. 171–172, this contract was modified, and about the middle of June, 1941, an oral agreement was made by which the Torrington Company agreed to supply all of the energy from its own steam plant in Torrington." (Campbell, R. 138–139)

37. In failing to find, as requested:

"For the East Hampton and Bristol areas, the respondent purchased energy directly from the Connecticut Power Company, with which it had formal contracts. Copies of those for the periods beginning January 1, 1937, are Exs. 8 and 25. These contracts contained no express provision as to the source of the energy, but there was a provision that the unit charge for energy supplied should be adjusted on the basis of the cost of coal in the bunkers of the South Meadow plant of the Hartford Company in Hartford. In addition, there was a stipulated demand charge."

38. In failing to find, as requested:

"The Connecticut Power Company at all times had an understanding with the Hartford Electric Light Company under which the Hartford was obligated to supply such capacity as might be required, in addition to the capacity of the Connecticut Power Company's own water power plants, to carry the loads on the C.P. 1 and 2 lines, including those at Bristol, at Middletown (which included the East Hampton area of the respondent), and at Torrington (which included the Torrington-Winsted area of the respondent). This understanding was eventually embodied in formal contracts, the one relating to Middletown and Torrington being dated June 1, 1936, and the one relating to Bristol being

dated June 8, 1937. These contracts provided both for a demand charge and for an energy charge. Exs. 36 and 37 contain copies of these contracts." (Ferguson, R. 2426–2469, 2512, 2519–2522; Barney, R. 645–646, 649–650; Colvin, R. 1773, 1775–1792, 1810–1814)

39. In failing to find, as requested:

"The maximum amount purchased at any time by the respondent for its three areas connected with C.P. lines 1 and 2 from the Torrington Company and the Connecticut Power Company was less than 19,836.8 k.w." (Hopper, R. 2492)

40. In failing to find, as requested:

"The capacities of the plants of the Hartford Company and the Connecticut Power Company in Connecticut which were connected with the C.P. 1 and 2 lines have been as follows:

(1) Hartford Electric Light Company:

South Meadow	Steam	130,000 k.w.
Dutch Point	Steam	34,000 k.w.
Tariffville	Hydro	1,500 k.w.

(2) Connecticut Power Company:

Falls Village	Hydro	9,000 k.w.
Unionville	Hydro	1,600 k.w."

(Mayott, R. 2534–2537)

41. In failing to find, as requested:

"Except during a brief period when the service was interrupted owing to the flood of 1936, the South Meadow plant of the Hartford Company was continually generating a substantial amount of energy, and each generator thereon which was generating was at all times connected with the 66,000 volt bus of the South Meadow substation." (Hopper, R. 2480–2483; Mayott, R. 2536, 2537, 2540, 2541)

42. In failing to find, as requested:

"The generating capacity of the South Meadow plant was at all times greater than the contemporaneous maximum demand on the Hartford's own system plus that on C.P. lines 1 and 2." (Mayott, R. 2538, 2539)

43. In failing to find, as requested:

"At no time since January 1, 1937, were the combined loads of the respondent on C.P. lines 1 and 2 more than the amount generated contemporaneously by generators located in Connecticut connected with the C.P. lines 1 and 2." (Hopper, R. 2480–2482, 2483)

44. In failing to find, as requested:

"The Connecticut Power Company has been since January 1, 1937, a member of the Connecticut Valley Power Exchange. The Connecticut Valley Power Exchange is a voluntary association of several power companies, operating under an agreement. Since January 1, 1937, the members have been the Connecticut Power Company, the New England Power Company, and the Turners Falls Power & Electric Company. The respondent has not been a member of the Exchange during any period which is important in this case. None of the parties to this agreement was under any obligation to furnish any energy to any of the others, and the arrangement can be terminated at will. The object of the Exchange is 'to exchange surplus power so that the lowest available increment cost sources will be used in supplying the combined load'. The Exchange is not a medium for jointly arranging load-carrying capacities. It is expressly understood that each member concerned must keep on hand a sufficient reliable capacity, including a sufficient reserve, to provide for its own load. No contract of sale or purchase and no primary power supply is involved in the operation of the pool. No fixed amount was paid for energy furnished by the Exchange, but any party generating electric energy at the request of the Exchange was credited with the incremental cost (if any) which it incurred in generating such energy, and the party which otherwise would have had to generate it was charged with its decremental cost—*i.e.*, what it would have cost it to have generated the additional amount which it was relieved from generating by reason of another source of supply being made available to the combined loads on the circuits. The savings of the Exchange thus computed were divided equally between the three members regardless of the amount of electric energy contributed by each. No attempt was

made in the conduct of the Exchange to allocate supply to any particular load and no effort was made to keep track of the source of supply for any load. The schedule of operations submitted by the manager of the Exchange to the members for operations during the ensuing twenty-four hours was not obligatory upon any member, and in fact in many instances the schedule was not adhered to." (Mayott, R. 701–702, 708, 718, 730, 764–765, 768, 835, 843–945, 2544; Barney, R. 650–652, 1885–1889; Ex. 39)

45. In failing to find, as requested:

"The distance on the Hartford-Agawam line from the Massachusetts boundary to the South Meadow substation is about 27 miles." (Colvin, R. 1794)

46. In failing to find, as requested:

"The tap on the C.P. lines which supplied Middletown, and through it the *East Hampton* area of the respondent is about 11 miles from Hartford and consequently about 38 miles from the Massachusetts boundary as the lines run. In Middletown (which was served at retail by Connecticut Power Company), energy was transformed by Connecticut Power Company to 13.8 k.v., at which some of it was supplied to customers of that company. Under that voltage it crossed the Connecticut River easterly by submarine cable to Portland (which was also supplied at retail by Connecticut Power Company). From the substation at Portland, many circuits emanated to serve customers at 13.8 k.v., and one of these led to Pole 110 in Portland, supplying a group of customers of the Connecticut Power Company on the way. Up to this point the facilities were owned by the Connecticut Power Company. Leaving Pole 110 was a circuit, owned by the respondent, which served East Hampton and the surrounding territory. The line from Pole 110 through this territory extended for a distance of about 15 miles and went to 5 different substations of the respondent in which there were transformers which stepped down the energy to lower voltages. Until the hurricane of September, 1938, the respondent owned a hydro-electric generating plant at Leesville in this area. This was connected with the lines mentioned. All of

the energy at this plant was used by the respondent in its East Hampton area. The facilities which the respondent owned were those to the east of Pole 110 in Portland, and its lines from that point extended only into the East Hampton territory above described." (Exs. 26 and 38; Miller, R. 1137, 1138; Thomas, R. 1291, 1356; Colvin, R. 1794–1805)

47. In failing to find, as requested:

"The tap on the C.P. lines by which *Bristol* is supplied is about 24 miles from Hartford and consequently about 51 miles from the Massachusetts boundary as the lines run. The tap extends for a distance of about 2 miles from the C.P. lines to the Bristol substation. This tap line is owned by the Connecticut Power Company. The Bristol substation and its facilities are owned by the respondent. The outdoor substation includes step-down transformers transforming the energy from 66 k.v. to 13.8 and 4.6 k.v. There are also in the substation oil circuit breakers, disconnect switches for the control thereof, lightning arresters, current transformers, and so forth, as well as steel structures carrying the conductors. In the adjoining building is a synchronous condenser and auxiliaries therefor. This substation is located in the heart of Bristol. Some customers are supplied directly by 13.8 k.v. circuits, and several others by the 4.6 k.v. circuits, in various parts of the city." (Exs. 28, 38 and 82) (Thomas, R. 1292, 1322, 1333, 1617; Colvin, R. 1712–1715)

48. In failing to find, as requested:

"The point at which the C.P. line is tapped to supply Torrington is about 39 miles from Hartford, and consequently 66 miles from the Massachusetts boundary as the lines run. Except for the supply of energy obtained from its own hydro plant at Robertsville, (a short distance north of Winsted), the respondent obtained all of the energy for its *Torrington-Winsted* area from Torrington Electric Light Company, which in turn, until June 17, 1941, obtained it from Connecticut Power Company. At Torrington, the Connecticut Power Company owns transformers which step the energy down to 2.4 k.v., at which voltage it is supplied to Torrington Elec-

tric Light Company. Torrington Electric Light Company serves the city of Torrington. It delivered energy at 2.4 k.v. to the respondent. The energy then went through the transformers of the respondent at Torrington, in which it was stepped up to 27.6 k.v. and flowed at this voltage to stepdown transformers in Winsted, about ten miles distant, over lines owned in part by the respondent. Between the point of delivery at Torrington and Winsted, the line formerly served numerous customers but at the time of the hearing only one customer was served from the line between these points. At Winsted are located transformers on one side of which the voltage is 27.6 k.v. and on the other side 4.8 k.v. The 4.8 k.v. lines lead to various parts of Winsted and to Robertsville. The generating plant at Robertsville generates energy at 4.8 k.v., at which voltage the line goes to the substation at Winsted, serving numerous customers on the way, and customers are also served at 4.8 k.v. from lines running north from Robertsville." (Exs. 27, 38 and 79; Miller, R. 1138; Thomas, R. 1298, 1318; Colvin, R. 1776–1778)

49. In failing to find that the respondent's facilities at Torrington and Winsted have not been connected with the C.P. lines for many months, and that the connection with them has been severed so that it is impossible for the respondent's Torrington-Winsted area to be supplied with any energy from the C.P. lines without very extensive reconstruction.

50. In failing to find, as requested:

> "The only facilities owned or operated by the respondent in its East Hampton area were 'facilities used for the generation of electric energy' or 'facilities used in local distribution'." (See brief of respondent*, pp. 56–71)

51. In failing to find, as requested:

> "The only facilities owned or operated by the re-

* The brief referred to is that dated September 17, 1941, filed with the Federal Power Commission in the above entitled matter on or about that date.

spondent in its Bristol area are 'facilities used in local distribution'." (See brief of respondent, pp. 56–71)

52. In failing to find, as requested:

"The only facilities in the Bristol area which counsel for the Commission contend were not 'facilities used in local distribution' are located in one substation owned by the respondent in the heart of Bristol. The facilities there were all designed in connection with service of the respondent's distribution system in Bristol and are used for the purpose of distributing the power received from the Connecticut Power Company locally to the customers of the respondent." (See brief of respondent, pp. 58, 63, 66–67)

53. In failing to find, as requested:

"The synchronous condenser in Bristol is used only during periods when the larger industrial customers there are drawing considerable power. The major object in operating it is to maintain the voltage on the bus in Bristol with which the feeders to some of the local customers are connected. The synchronous condenser produces the magnetizing current which is necessary to the proper operation of the distribution system." (See brief of the respondent, pp. 63, 67)

54. In failing to find, as requested:

"The transformers in the substation at Bristol were designed to supply energy at two particular voltages which are suited to the requirements of the Bristol distribution system." (See brief of respondent, pp. 63, 66–67)

55. In failing to find, as requested:

"All the facilities of the Torrington-Winsted area owned or operated by the respondent are 'facilities used for the generation of electric energy' or 'facilities used in local distribution'." (See brief of respondent, pp. 56–71)

56. In failing to find, as requested:

"The regulations for accounting of the Federal

Power Commission and also the regulations adopted in the uniform system of accounting for electric utilities of the National Association of Railroad and Utilities Commissioners and by the Public Utilities Commission of the State of Connecticut all provide (Ex. 90, par. 16; Ex. 91, par. 14 and 15):

'Stations which change the energy from transmission to distribution voltage shall be classified as distribution stations'."

57. In failing to find, as requested:

"Electric energy loses its identity when placed on a conductor and that generated at one source cannot be distinguished from that generated at another." (Thomas, R. 1600–1601)

58. In failing to find, as requested:

"Electric energy is drastically changed by a transformer. The operation of a transformer is 'transferring energy from one form to another' (R. 1316), and the transformers 'make a substantial change both in the voltage and the current'. (R. 1624) The current on one side of the transformer is an entirely different current from that on the other side. There is no electrical connection between the two sides of the transformer. (Lewis, R. p. 2319; Ex. 83) In the transformer the energy is converted largely to electro-magnetic form. In it the energy undergoes essentially a double transformation. Broadly speaking, the energy inside of a transformer 'has been converted and reshaped so as to give it new characteristics'." (Lewis, R. 2333–2337)

59. In failing to find, as requested:

"In its Order 42, by which the Uniform System of Accounts was put into effect, the Federal Power Commission provided that Account No. 352, 'Station Equipment,' should include the cost, among other things, of 'transformer banks, etc. which are used for the purpose of changing the characteristics of electricity in connection with its distribution'."

60. In failing to find, as requested:

"It has not been shown that any electric energy generated outside of Connecticut reached any of the facilities of the respondent." (See brief of respondent, pp. 43–56)

61. In failing to find, as requested:

"There is no substantial evidence that any electric energy generated outside of Connecticut reached any of the facilities of the respondent." (See brief of respondent, pp. 43–56)

62. In failing to find, as requested:

"The State of Connecticut has a commission created by statute known as the Public Utilities Commission. That Commission has jurisdiction over the contracts, (wholesale and retail) rates, and facilities, relating to the electric energy business of the respondent, and has asserted such jurisdiction. (Hyde, R. 222–223, 235) Regulation by the Connecticut Public Utilities Commission of the accounting methods of the respondent is authorized and governed by Sections 3604, 3603 and 3606 of the General Statutes of Connecticut, Revision of 1930, and Section 1198-E of the 1939 Supplement to the General Statutes."

63. In failing to find, as requested:

"A Connecticut uniform system of accounts effective January 1, 1941, was prescribed by Docket No. 6861, and a system of accounts in effect prior to January 1, 1941, had been adopted by Docket No. 4187, which docket numbers are those of the Public Utilities Commission of the State of Connecticut."

(The respondent offered to prove this by Exhibit 14 for identification and also offered to show through Mr. Hyde, a former member of the Public Utilities Commission of the State of Connecticut, that there is now and was both prior and subsequent to August 26, 1935, a system of accounts prescribed by the Public Utilities Commission of the State of Connecticut and that the respondent had complied with that system. This offer of proof, however, the examiner erroneously excluded.) (Ex. 14 for identification; R. 228, 234, 235, 240–245, 249–251)

64. In failing to hold that the Respondent is not a public utility within the meaning of Part II and Part III of the Federal Power Act.

65. In failing to hold that the Respondent was not at any time after August 26, 1935, a public utility within the meaning of Part II and Part III of said Act.

66. In failing to hold that facilities for "transmission of electric energy in interstate commerce" and for "sale of electric energy at wholesale in interstate commerce", as those terms are used in Part II of the Federal Power Act, include only facilities which are used in business which is essentially interstate, as opposed to local, in character.

67. In failing to hold and to find that the Respondent owns or operates no such facilities as those described in paragraph 66 hereof.

68. In failing to hold and to find that since August 26, 1935, the Respondent has owned or operated no such facilities as those described in the paragraph hereof marked 66.

69. In failing to hold and to find that no facilities of the Respondent are being used in any business except that of an essentially local character.

70. In failing to hold and to find that no facilities of the Respondent have at any time since August 26, 1935, been used in any business except of an essentially local character.

71. In failing to hold that even if energy generated in one state was transmitted to consumers in another state over facilities of the Respondent, that part of the transmission which took place on the Respondent's facilities was not interstate commerce.

72. In failing to hold that the only facilities owned or operated by the Respondent in its East Hampton area were "facilities used for generation of electric energy" or "facilities used in local distribution".

73. In failing to hold that the only facilities owned or operated by the Respondent in its Bristol area were "facili-

ties used for generation of electric energy" or "facilities used in local distribution".

74. In failing to hold that the only facilities owned or operated by the Respondent in its Torrington-Winsted area were "facilities used for generation of electric energy" or "facilities used in local distribution".

75. In failing to hold that the jurisdiction of the Federal Power Commission over the Respondent is precluded by Section 1414(c) of the Supplement to the Connecticut General Statutes of 1935, which gives to the Public Utilities Commission of Connecticut specific jurisdiction over security issues, mergers, consolidations, dissolutions, managerial contracts, the conditions of the utility plant, the equipment and manner of operation of all public service companies, the sale, lease, assignment or mortgage of any essential part of utilities, franchises, plant or equipment or other property, and provides:

> "No . . . Board or Commission purporting to act under any governmental authority other than that of this state or of its divisions . . . shall interfere with or attempt to interfere with or exercise authority or control over any gas, electric or water company incorporated by this state, and engaged in the business of supplying service within this state . . . without having first obtained the approval of the Commission, except as the United States may properly regulate actual transactions in interstate commerce."

76. In failing to hold that the fact that the Borough of Groton is a municipal corporation prevents sales by the Respondent to it from subjecting the Respondent to the jurisdiction of the Commission.

77. In failing to hold that the jurisdiction of the Commission does not extend over those matters of any company which are subject to regulation by the state in which it is located.

78. In failing to hold and to find that all of the facilities

of the Respondent and all of its business are subject to regulation by the Public Utility Commission of the State of Connecticut.

79. In failing to hold and to find that where electric energy is transmitted into a state and put through a transformer in order to render the energy suitable for local customers the effect of the transformer is to terminate the interstate journey of the energy.

80. In failing to hold and to find that the effect of the transformers at Groton and Groton Long Point was to prevent any transmission of electric energy over facilities of the Respondent to Groton or Groton Long Point from being transmission in interstate commerce and to prevent the sale thereof from being a sale of such energy at wholesale in interstate commerce.

81. In holding that the Respondent is or at any time was subject to the Uniform System of Accounts prescribed by the Commission or any orders of the Commission relating to accounts.

82. In so far as it made any finding or ruling contrary to any of the propositions set forth in the paragraphs hereof numbered 29 to 80 inclusive.

The Respondent hereby requests the Commission to make each of the findings and rulings set forth in the above paragraphs numbered 29–80, inclusive.

The petitioner also specifies in this petition various rulings made in the course of the proceedings by the Trial Examiner, which rulings appear to have been adopted by the Commission. In support of this application, it relies upon the following errors of this kind, and contends that the Commission erred in so far as it approved, adopted or failed to reverse the following rulings of the Trial Examiner, to all of which exceptions were duly taken (as appears by the general arrangement appearing at pp. 44–45,

227 and 490 of the official stenographer's report of the proceedings).

• • •

4. Sustaining objections to questions by counsel for the Respondent of the said witness Hyde in direct examination as to the meaning of the terms "facilities for transmission" and "facilities for local distribution" of an electric company and his opinion of such meaning (as appears in said report at pp. 259–263).

• • •

6. Sustaining objections to questions by counsel for the Respondent of said witness Hyde in regard to his opinion as to the meaning of said terms as used generally in the industry (as appears in said report at pp. 265–269).

7. Sustaining objections to questions by counsel for the Respondent of said witness Hyde as to the classification of stations which change energy from transmission to distribution (as appears in said report at p. 269).

8. Sustaining objections to questions by counsel for the Respondent of said witness Hyde as to the definition of "facilities for local distribution" of electric companies in the uniform system of accounting for electric utilities of the National Association of Railroad and Utilities Commissioners and in the uniform system of accounting of the Federal Power Commission (as appears in said report at pp. 269–272).

• • •

12. Admitting over the objection of counsel for the Respondent Exhibit 30 (as appears in said report at pp. 601–603).

13. Overruling objections of counsel for the Respondent to questions asked of the witness Austin D. Barney by counsel for the Commission in regard to letters contained in Exhibit 30 (as appears in said report at pp. 604–616).

• • •

21. Admitting over the objection of counsel for the Respondent Exhibit 48 (as appears in said report at pp. 981–982).

22. Admitting over the objection of counsel for the Respondent Exhibit 50 (as appears in said report at pp. 984–987).

• • •

29. Admitting over the objection of counsel for the Respondent Exhibits 32, 33 and 34 (as appears in said report at pp. 1097–1098).

• • •

32. Overruling objections of counsel for the Respondent to questions asked by counsel for the Commission in direct examination of the witness Harold E. Miller in regard to the sources of supply of electric energy with which the requirements of the Winsted, Bristol and East Hampton systems could have been supplied (as appears in said report at pp. 1115–1119).

33. Overruling objections of counsel for the Respondent to questions asked by counsel for the Commission in direct examination of said witness Miller in regard to supply of energy to C.P. 1 and C.P. 2 lines (as appears in said report at pp. 1128–1130).

• • •

35. Overruling objections of counsel for the Respondent to questions asked by counsel for the Commission in direct examination of said witness Miller in regard to facilities used to deliver electric energy to various parts of the system of the Connecticut Light and Power Company and explanations and references to flow diagrams and other material relative thereto, including all questions on pages 1139–1212, 1223–1230, 1243–1244, 1246–1254).

• • •

37. Overruling objections of counsel for the Respondent to question asked by counsel for the Commission in direct

examination of the witness Percy H. Thomas in regard to supply of electric energy from Massachusetts to the Winsted, Bristol and East Hampton districts of the Respondent (as appears in said report at p. 1270).

38. Refusing to strike out the answer of said witness Thomas in direct examination to the question on pp. 1278–1279 to the effect that no electric energy was being supplied from certain generating capacities in Connecticut during the periods which the witness Miller so indicated (as appears in said report at pp. 1278–1281).

39. Overruling objections of counsel for the Respondent to questions asked by counsel for the Commission in direct examination of the said witness Thomas regarding principles underlying the witness Miller's conclusions (as appears in said report at pp. 1285–1287).

40. Refusing to strike out the answer of the witness Thomas on pp. 1290–1293 of said report relating to system of facilities by which he testified that the electric energy requirements for the Winsted, Bristol and East Hampton districts of the Connecticut Light and Power Company were supplied in whole or in part from Massachusetts (as appears on pp. 1290–1293 of said report).

41. Refusing to strike out the answer of the witness Thomas on pp. 1294–1295 of said report characterizing certain facilities as transmission facilities in the Winsted district (as appears in said report at pp. 1293–1296).

42. Overruling objections of counsel for the Respondent to questions asked by counsel for the Commission in direct examination of the witness Thomas relating to functions served by facilities between Torrington and Winsted belonging to the Respondent (as appears in said report at pp. 1296–1299).

43. Overruling objections of counsel for the Respondent to questions asked by counsel for the Commission in direct examination of the witness Thomas as to the meanings and

definitions of "transmission" and "local distribution" on p. 1299 (as appears in said report at pp. 1299–1303).

44. Overruling objections of counsel for the Respondent to questions asked by counsel for the Commission in direct examination of the witness Thomas in regard to whether facilities of the Respondent in Torrington and Winsted and between those places are facilities for the transmission of electric energy, as distinguished from local distribution of electric energy on pp. 1306 and 1307 (as appears in said report at pp. 1305–1310).

45. Refusing to strike out the answer of the witness Thomas to question in direct examination by counsel for the Commission to the effect that certain transformers "constitute a link in the transmission of energy from Massachusetts to Winsted" and similar expressions (as appears in said report at pp. 1316–1320).

46. Refusing to strike out the answer of the witness Thomas to question in direct examination by counsel for the Commission as to whether certain facilities were facilities for the transmission of electric energy as distinguished from local distribution of electric energy (as appears in said report at pp. 1334–1336).

47. Overruling objections of counsel for the Respondent to question on pp. 1338–1339 asked by counsel for the Commission in direct examination of the witness Thomas in regard to certain facilities being facilities for transmission of electric energy transmitted from one state and consumed in another and in regard to electric energy being consumed by persons other than the transmitter thereof (as appears in said report at pp. 1338–1339).

48. Overruling objection to question and denying motion to strike out answer to same made by Respondent to question asked in direct examination of the witness Thomas by counsel for the Commission on p. 1354, beginning with the statement that certain step-down transformers and certain

other appurtenances are parts of the facilities for transmitting electric energy from Massachusetts to Bristol (as appears in said report at pp. 1353–1355).

49. Denying motion to strike out all testimony of the witness Thomas in which he characterized functions or use of facilities as distinguished between transmission and local distribution (as appears in said report at p. 1358).

50. Overruling objections of counsel for the Respondent to questions asked by counsel for the Commission in direct examination of said witness Thomas that certain facilities in the East Hampton district were facilities for the transmission of electric energy as distinguished from local distribution (as appears in said report at pp. 1357–1359).

51. Overruling objections of counsel for the Respondent to questions asked by counsel for the Commission in direct examination of the witness Thomas to the effect that certain facilities were facilities for transmission of electric energy transmitted in Massachusetts and consumed in Connecticut (as appears in said report at pp. 1359–1360a).

52. Overruling objections of counsel for the Respondent to question asked by counsel for the Commission in direct examination of the witness Thomas on p. 1366 in regard to whether certain facilities were facilities for the transmission of electric energy which was transmitted from the State of Connecticut and consumed in the State of New York by persons other than the transmitter thereof (as appears in said report at pp. 1366–1369).

* * *

54. Admitting over the objection of counsel for the Respondent Exhibits 64 and 65 (as appears in said report at pp. 1563–1564).

55. Admitting over the objection of counsel for the Respondent Exhibits 61 and 62 (as appears in said report at pp. 1564–1565).

56. Denial of motion of counsel for the Respondent to

strike out the answer of said witness Miller to question of counsel for the Commission in redirect examination appearing on pp. 1569–1570 relating to flow of Massachusetts energy to C.P. lines, and other matter (as appears in said report at pp. 1568–1575).

57. Denial of motion of counsel for the Respondent to strike out the answer of said witness Miller to question of counsel for the Commission in redirect examination appearing on pp. 1573–1574 in relation to 280 days, to which the witness had previously referred (as appears in said report at pp. 1573–1575).

• • •

59. Admitting over the objection of counsel for the Respondent Exhibit 68 (as appears in said report at pp. 1692–1694).

60. Admitting over the objection of counsel for the Respondent Exhibit 69 (as appears in said report at pp. 1694–1695).

61. Admitting over the objection of counsel for the Respondent Exhibit 70 (as appears in said report at p. 1695).

62. Overruling objections of counsel for the Respondent to the questions asked of the witness Richard B. Curran on direct examination by counsel for the Commission appearing on pp. 1846–1850 based upon a letter of July 11, 1939, sent by the witness to Federal Power Commission, including all questions appearing in said report at pp. 1846–1850.

• • •

67. Admitting over the objection of counsel for the Respondent Exhibit 71 (as appears in said report at pp. 2555–2556).

• • •

MEMORANDUM.

The extracts from the record which follow in this Appendix comprise all the material designated by counsel for the respondent in addition to the designations of petitioner, and are printed herein by agreement of counsel.

BEFORE THE

Federal Power Commission.

Docket No. IT-5665.

IN THE MATTER OF

THE CONNECTICUT LIGHT & POWER COMPANY.

EXTRACTS FROM THE RECORD FILED BY FEDERAL POWER COMMISSION.

[Note: All figures in brackets and in italics are the page numbers of the original Record in this case.]

[*1-B*]

FEDERAL POWER COMMISSION WASHINGTON, D. C.

ORDER NO. 42

(Adopted June 16, 1936)

PRESCRIBING A SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSEES UNDER THE FEDERAL POWER ACT

The Federal Power Commission acting pursuant to authority granted by the Federal Power Act, particularly Section 301(a), 304(a), and 309, and Paragraph (13) of Section 3, and Section 4(b) thereof, and finding such action necessary and appropriate for carrying out the provisions of said Act, hereby adopts the accompanying system of accounts entitled, "Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to

the Provisions of the Federal Power Act", and the rules and regulations contained therein; and

It is hereby ordered:

(1) That said system of accounts and said rules and regulations contained therein be and the same are hereby prescribed and promulgated as the system of accounts and rules and regulations of the Commission to be kept and observed by public utilities subject to the jurisdiction of the Commission and by licensees holding licenses issued by the Commission, to the extent and in the manner set forth therein;

(2) That said system of accounts and rules and regulations therein contained shall, as to all public utilities now subject to the jurisdiction of the Commission and as to all present licensees, become effective on January 1, 1937, and as to public utilities and licensees which may hereafter become subject to the jurisdiction of the Commission, they shall become effective as of the date when such public utility becomes subject to the jurisdiction of the Commission or on the effective date of the license;

(3) That a copy of said system of accounts and rules and regulations contained therein be forthwith served upon each public utility subject to the jurisdiction of the Commission, and each licensee or permittee holding a license or permit from the Commission.

This system of accounts supersedes the system of accounts prescribed for licensees under the Federal Water Power Act; and Order No. 13, entered November 20, 1922, prescribing said system of accounts, is rescinded effective January 1, 1937.

Adopted by the Commission on June 16, 1936:

LEON M. FUQUAY
LEON M. FUQUAY,
Acting Secretary.

* * * * * * [2]

[Copy]

FEDERAL POWER COMMISSION
Washington

Jun 30 1936

To All Public Utilities and Licensees:

The Federal Power Commission, acting pursuant to authority granted by the Federal Power Act, has prescribed and promulgated a Uniform System of Accounts, and rules and regulations governing the same, to be kept by all public utilities subject to the jurisdiction of the Commission and by licensees holding licenses issued by the Commission, to the extent and in the manner set forth therein.

A copy of said system of accounts is herewith enclosed. Additional copies are available upon request, and printed copies will be available in the near future.

The Commission is unable to determine from its records in some cases whether particular electric utilities are subject to its jurisdiction. Should any electric utility, upon whom this system of accounts is served, consider that it is not subject to the provisions of the Federal Power Act, the Commission should be advised thereof promptly with a full statement of reasons in support of such contention.

FEDERAL POWER COMMISSION
By Leon M. Fuquay
Leon M. Fuquay
Acting Secretary

Enclosure

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* * * * * * [3]

Following are the lists of Permittees Licensees, and Public Utilities on whom were served the "Uniform System of Accounts Prescribed for Public Utilities and Licensees" on June 30, 1936, together with copies of the letters of transmittal.

Registered Receipt Rec'd	Name	Address
* * *		
	CONNECTICUT	
7-3-36	The Connecticut Light & Power Co.	36 Pearl Street Hartford, Connecticut
* * *		

* * * * * * [4]

Return receipt showing receipt by the Connecticut Light and Power Company of Order No. 42 and the Uniform System of Accounts.

No. 443705 (Received July 3, 1936)

[*1-B-1*]

FEDERAL POWER COMMISSION

UNIFORM SYSTEM OF ACCOUNTS

PRESCRIBED FOR

PUBLIC UTILITIES AND LICENSEES

SUBJECT TO THE PROVISIONS OF

THE FEDERAL POWER ACT

[Seal of the
Federal Power Commission
U. S. A.]

Revised to December 31, 1936

EFFECTIVE JANUARY 1, 1937.

SUPERSEDES THE SYSTEM OF ACCOUNTS PRESCRIBED FOR LICENSEES UNDER THE FEDERAL WATER POWER ACT

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* * * * * * [*1-B-58*]

16. TRANSMISSION AND DISTRIBUTION PLANT.

For the purpose of this system of accounts:

A. "Transmission system" means: (1) All land, conversion structures, and equipment employed at a primary source of supply (*i.e.*, generating station, or point of receipt in the case of purchased power) to change the voltage or frequency of electric energy for the purpose of its more efficient or convenient transmission; (2) all land, structures, lines, switching and conversion stations, high tension apparatus, and their control and protective equipment between a generating or receiving point and the entrance to a distribution center or wholesale point; and (3) all lines and equipment whose primary purpose is to augment, integrate, or tie together the sources of power supply.

B. "Distribution system" means all land, sturctures, conversion equipment, lines, line transformers, and other facilities employed between the primary source of supply (*i.e.*, generating station, or point of receipt in the case of purchased power) and of delivery to customers, which are not includible in transmission system. as defined in Paragraph A, whether or not such land, structures and facilities are operated as part of a transmission system or as part of a distribution system.

NOTE.—Stations which change the energy from transmission to distribution voltage shall be classified as distribution stations.

* * * * * * [23]

5/11/37

FEDERAL POWER COMMISSION

ELECTRIC PLANT INSTRUCTION 2 D—UNIFORM SYSTEM OF ACCOUNTS

It appearing to the Commission:

(1) That Electric Plant Instruction 2D of the Uniform System of Accounts, prescribed for public utilities and licensees, provides as follows:

> "D. Not later than 2 years after the effective date of this system of accounts, each utility shall have completed the studies necessary for classifying its electric plant as of the effective date of this system of accounts in accordance with the accounts prescribed herein, and it shall submit to the Commission the entries it proposes to make to carry out the provisions of this instruction. It shall submit also a comparative balance sheet showing the accounts and amounts appearing in its books as of the effective date of this system of accounts and the accounts and respective amounts as of the same date after the proposed entries shall have been made."

(2) That it is necessary and desirable in order adequately to consider the adjusting entries specified in the above-named instruction that data relative to the history of each public utility, its acquisitions of electric operating units or systems, the original cost thereof, the amounts entered in the books in respect thereto, the method of determining original cost, and much related information be furnished.

It is ordered:

That in submitting the information called for in Electric Plant Instruction 2D of the Uniform System of Accounts, prescribed for public utilities and licensees, each utility shall furnish, insofar as applicable, the following statements properly sworn to by the officer in responsible charge of their compilation:

Statement A showing in outline the origin and development of the company including, particularly, a description (giving names of parties and dates) of each consolidation and merger to which the company, or a predecessor, was a party and each acquisition of an electric operating unit or system.

Statement B showing for each acquisition by the reporting company or any of its predecessors of an electric operating unit or system, the original cost, estimated, if not known, the cost to such company and the amount entered in the books in respect thereto as of the date of acquisition. If the depreciation, retirement or amortization reserve was adjusted as of the date of acquisition and in connection therewith, a full disclosure of the pertinent facts should be made. The difference between the original cost and the amount entered in respect thereto of each acquisition of an electric operating unit or system, as of the date of acquisition, should be clearly stated, and a summary of all transactions affecting such difference between the date of the respective acquisition and January 1, 1937, and the resultant amount on the latter date, should be set forth. The amount to be included in Account 100.5, Electric Plant Acquisition Adjustments, as of January 1, 1937, shall be subdivided so as to show the amounts applicable to (a) electric plant in service, (b) electric plant leased to others, and (c) electric plant held for future use. Whenever practical, such amount shall be classified according to nature, *i.e.*, going value, structural value, etc.

Where estimates are used in arriving at original cost or [24] the amount to be included in Account 100.5, a full disclosure of the method and underlying facts should be given. The method of determining the original cost of the electric plant acquired as operating units or systems should be described in sufficient detail to permit a clear understanding of the nature of the investigations which were made for that purpose.

Statement C showing any amounts arrived at by appraisals,

recorded prior to January 1, 1937, in the electric plant accounts (and not eliminated) in lieu of cost to the reporting company. This statement should give the full journal entry at the time the appraisal was originally recorded and if the entry had the effect of appreciating or writing-up the electric plantaccount, the amount of the appreciation or write-up should be traced, by proper description and explanation of changes, from the date recorded to January 1, 1937.

Statement D showing electric plant as of December 31, 1936, as classified in the books of account immediately prior to reclassification in accordance with the new system of accounts, including, under a descriptive heading, any unclassified amounts applicable jointly to the electric department and other departments of the unility.

Statement E showing summary of adjustments necessary to state, as of January 1, 1937, Accounts 100, Electric Plant, including all its subsidiary accounts, and Account 107, Electric Plant Adjustments, as prescribed in the Uniform System of Accounts.

Statement F showing electric plant (balance sheet Account 100) as of January 1, 1937, classified according to the accounts prescribed in the Uniform System of Accounts, effective on that date, and showing also the amount includible in Account 107, Electric Plant Adjustments.

Statement G giving a comparative balance sheet, as of January 1, 1937, showing the accounts and amounts appearing in the books before the adjusting entries have been made and after such entries shall have been made.

Statement H giving a suggested plan for depreciating, amortizing, or otherwise disposing in whole or in part of the amounts, as of January 1, 1937, includible in Account 100.5, Electric Plant Acquisition Adjustments, and Account 107, Electric Plant Adjustments.

Statement I giving the following statistical information relative to electric plant:

Production Plant

Steam Production

Separately for each steam plant: Name of plant, date of construction, name plate generating capacity (kw) as originally constructed and as at present, also name plate capacity and date of installation of each addition to generating capacity. The original cost, where available, by Accounts 310 and 316, of each steam production plant.

Hydraulic Production

Separately for each hydro plant: Name of plant, date of construction, capacity of reservoirs (acre feet), name plate generating capacity (kw) as originally constructed and as at present, also name plate capacity and date of installation of each addition to generating capacity. The original cost, where available, by Accounts 320 to 326, of each hydraulic production plant.

Internal Combustion Engine Production

For each internal combustion engine plant: Name of plant, date of construction, name plate generating capacity (kw) as originally constructed and as at present, also [25] name plate capacity and date of installation of each addition to generating capacity. The original cost, where available, by Accounts 330 to 336, of each internal combustion engine production plate.

Transmission Plant

Overhead Transmission Lines

For each overhead transmission line or for each group of transmission lines of the same voltage, same general type of construction and same number of circuits per structure: the voltage, length in miles, type of construction, kind and size of conductor. The original cost as of January 1, 1937, where available, by Accounts 340, 341, 342, 344, 345, 346, and 349, of each such line or group of lines.

Underground Transmission Lines

For each underground transmission line or for each group of transmission lines of the same voltage, same general type of construction and same number of circuits per structure: The voltage length in miles and type of construction. The original cost as of January 1, 1937, where available, by Accounts 340, 341, 342, 347, 348 and 349, of each such line or group of lines.

Transmission Substations

For each substation: Function, capacity (kva), high and low voltages of transformers, description and capacity of special items of equipment.

DISTRIBUTION PLANT

(a)

Overhead System

Number of pole and circuit miles, number of active meters or services connected (if available), description and number of each type of pole or tower

(a)

Underground System

Number of circuit miles, number of active meters or services connected (if available), description of type of construction and general statement of any special construction problem.

(a) If number of active meters or services is not available separately for overhead and underground systems, report totals.

Distribution Substation

General description of number, capacity (kva), and high and low voltages of transformers.

Line Transformers

Number and capacity.

Street Lighting and Signal Systems

Description and number of each type of street lighting standard, number and wattage of lamps, and description of signal system.

GENERAL PLANT

Description of principal structures and improvements. [26]

Number and type of transportation vehicles and appurtenant equipment.

Description of store, shop, and laboratory equipment.

Description of communication equipment.

Description of miscellaneous equipment.

* * * * * *

Adopted by the Commission on May 11, 1937.

/s/ LEON M. FUQUAY
LEON M. FUQUAY,
Acting Secretary

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* * * * * * [28-O]

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Commissioners: CLYDE L. SEAVEY, Chairman; BASIL MANLY, LELAND OLDS, JOHN W. SCOTT. CLAUDE L. DRAPER, not participating.

July 11, 1939.

ORDER NO. 42-A

PRESCRIBING ACCOUNTING WITH RESPECT TO ELECTRIC PLANT ACQUISITION ADJUSTMENTS ACCOUNTS

The Commission, having under consideration the matter of uniform systems of accounts, particularly the text of the account entitled "Electric Plant Acquisition Adjustments" of the Commission's Uniform System of Accounts prescribed for Public Utilities and Licensees by orders of the Commission adopted June 16, 1936 and December 31, 1936; and

It appearing to the Commission that:

(a) Electric Plant Accounts Instruction 2-A of the said Uniform

System of Accounts provides that each utility* shall classify its electric plant in accordance with the Electric Plant Accounts as prescribed in said Uniform System of Accounts;

(b) Instruction 2-C of said Electric Plant Accounts provides that the detailed Electric Plant Accounts of each utility shall be stated on the basis of cost to the utility of electric plant constructed by it and on the basis of original cost, estimated if not known, of electric plant acquired by it as an operating unit or system; and further, that the difference between the original cost as above, and the cost to the utility of electric plant includible in Accounts 100.1 to 100.4, inclusive, for Class A and B Utilities (or Accounts 1100.1 and 1100.3 for Class C Utilities and Accounts 2100.1 and 2100.3 for Class D Utilities), after giving effect to any depreciation or amortization recorded by the accounting utility at the time of acquisition, shall be recorded in Electric Plant Acquisition Adjustments Account;

(c) Subdivision C of Electric Plant Acquisition Adjustments Account provides as follows:

> The amounts recorded in this account with respect to each property acquisition shall be depreciated, amortized, or otherwise disposed of, as the Commission may approve or direct.

[*28-P*] The Commission *finds* that:

(1) Studies of original cost, as provided for in paragraph (a) above, are being completed by utilities and amounts entered in the appropriate primary Electric Plant Accounts in accordance with Instruction 2-C above referred to, or will be so entered in said accounts in the near future;

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* The term "utility" as used herein means any public utility or licensee to which the Commission's Uniform System of Accounts is applicable.

(2) It is appropriate to consider the matter of disposition of such amounts as may be lodged in said Electric Plant Acquisition Adjustments Accounts; and

The Commission *orders* that:

(A) Debit amounts in an Electric Plant Acquisition Adjustments Account may be charged to Earned Surplus in whole or in part, or may be amortized over a reasonable period by charges to Miscellaneous Amortization without further order of the Commission;

(B) Should a utility desire to account for debit amounts in an Electric Plant Acquisition Adjustments Account in any manner different from that indicated in (A) above, it shall petition the Commission for authority to do so;

(C) Debit balances shall not be determined by application of credit amounts thereto;

(D) Credit amounts in an Electric Plant Acquisition Adjustments Account shall be accounted for as directed by the Commission;

(E) Where a utility subject to both Federal and State regulations, petitions the Commission in accordance with paragraph (B) above, the cooperative procedure heretofore adopted between Federal and State Commission shall be invoked;

(F) Disposition of amounts in Electric Plant Acquisition Adjustments Accounts, as above directed, is for accounting purposes only and such disposition shall not be construed as determining or controlling the consideration to be accorded these items in rate or other proceedings, nor shall anything contained herein prevent the Commission from subsequently ordering the amounts to be charged directly to surplus or from modifying the adopted amortization period.

By the Commission.

LEON M. FUQUA, *Secretary.*

* * * * * * [29]

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Commissioners:

LELAND OLDS, Chairman, CLAUDE L. DRAPER, BASIL MANLY, JOHN W. SCOTT and CLYDE L. SEAVEY.

January 7, 1941

Docket No. IT-5665

In the Matter of

THE CONNECTICUT LIGHT & POWER COMPANY.

ORDER TO SHOW CAUSE.

The Commission, having under consideration the failure or refusal of The Connecticut Light & Power Company to comply with numerous orders and requirements of the Commission made under authority of the Federal Power Act;

It appearing to the Commission that:

(a) Pursuant to the authority granted by the Federal Power Act:

(1) By Order No. 42, adopted June 16, 1936, the Commission prescribed a Uniform System of Accounts for Public Utilities and Licensees, and by its Orders Nos. 42-A, 43, and 45 amended and supplemented the provisions of the said Uniform System of Accounts;

(2) By order adopted May 11, 1937, the Commission directed all public utilities and licensees subject to its jurisdiction to submit certain data, statements, and information, pursuant to Electric Plant Accounts Instruction 2-D of the Commission's Uniform System of Accounts, on or before January 1, 1939;

(3) By Order No. 36, adopted December 16, 1935, as amended and readopted February 4, 1936, Order No. 44, adopted December 31, 1936, and Order No. 50, adopted April 19, 1938, as amended by Order No. 60, adopted May 9, 1939, Order No. 62, adopted May 23, 1939, and Order No. 67, adopted November 3, 1939,

the Commission prescribed Rules of Practice and Regulations governing the filing of rate schedules subject to its jurisdiction;

(4) By orders adopted August 6, 1937, October 12, 1937, October 22, 1938, and October 17, 1939, and by Order No. 75, adopted September 24, 1940, the Commission pre- [30] scribed and amended a form of Annual Financial and Statistical Report, FPC Form No. 1, to be filed with the Commission by each Class A and B private, municipal, and public corporation engaged in the generation, transmission, or distribution of electricity, whether or not subject to the jurisdiction of the Commission;

(5) By orders adopted April 5, 1938, and December 6, 1938, Order No. 58, adopted February 23, 1939, and Orders Nos. 70 and 58-A, adopted November 14, 1939, the Commission approved and prescribed the preparing and filing of Power System Statements, FPC Form No. 64 (1937), FPC Form No. 64 (Revised 1938) FPC Form No. 64-A (1938), FPC Form No. 64 (1939) and FPC Form No. 64-A (1939), respectively, by each corporation, person, agency, authority, or other legal entity or instrumentality, whether public or private, which operates facilities for the generation, or transmission, or distribution of electric energy;

(b) All of the orders above described were duly served upon The Connecticut Light & Power Company;

(c) The time for compliance with all of the orders and requirements above described has expired;

(d) The Connecticut Light & Power Company may be a public utility under the provisions of the Federal Power Act;

(e) The Connecticut Light & Power Company is a corporation engaged in the business of and operating facilities for the generation, transmission, distribution and sale of electric energy;

(f) The Connecticut Light and Power Company has failed to comply with the Commission's Order No. 42 by failing or

refusing to keep its books in accordance with the system of accounts prescribed thereunder, effective January 1, 1937;

(g) The Connecticut Light & Power Company has failed to comply with Electric Plant Accounts Instruction 2-D of the Commission's Uniform System of Accounts and with the Commission's order adopted May 11, 1937;

(h) On January 1, 1939, The Connecticut Light & Power Company redeemed and refinanced its 3 3/4% First and Refunding Mortgage Bonds, Series E, and the unamortized debt discount and expense applicable thereto is being amortized over a period subsequent to the date of redemption of such bonds without the permission of the Commission required under Balance Sheet Accounts Instruction 6-E of the Commission's Uniform System of Accounts;

[*31*] (i) The Connecticut Light & Power Company has failed to comply with the Rules of Practice and Regulations prescribed by the Commission by failing or refusing to file rate schedules subject to its jurisdiction;

(j) The Connecticut Light & Power Company has failed to comply with the Commission's orders adopted August 6, 1937, October 12, 1937, October 22, 1938, and October 17, 1939, and Order No. 75, adopted September 24, 1940, by failing or refusing to make proper verification and oath to its Annual Reports, FPC Form No. 1, to this Commission for the years ending December 31, 1937, December 31, 1938, and December 31, 1939;

(k) The Connecticut Light & Power Company has failed to comply with the orders listed in paragraph (j) above by failing or refusing to make proper attestation and supplemental oath by its President, or other chief officer, to its Annual Report, FPC Form No. 1, to this Commission for the year ended December 31, 1939;

(l) The Connecticut Light & Power Company has failed to comply with the Commission's orders adopted April 5, 1938, and December 6, 1938, and Orders Nos. 58, 58-A

and 70, by failing or refusing to make proper certification to Power System Statements, FPC Form No. 64 (1937), FPC Form No. 64 (Revised 1938), FPC Form No. 64-A (1938), FPC Form No. 64 (1939) and FPC Form No. 64-A (1939);

(m) The Connecticut Light & Power Company has failed or refused to furnish information requested by the Commission with respect to a hurricane and flood investigation conducted in December, 1938;

(n) The Connecticut Light & Power Company, by the acts and failure or refusal to act referred to in paragraph (f) through (m) above, and otherwise, has pursued a general course of conduct with respect to compliance with Commission orders and requirements and with requests for information by this Commission pursuant to the Federal Power Act which may amount to wilful failure to comply with such orders, requirements, and requests;

The Commission *orders* that:

(A) The Connecticut Light & Power Company, under oath, show cause, if any there be, at a public hearing to be held commencing at 9:30 A.M., February 11, 1941, in the Hearing Room of the Federal Power Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N. W., Washington, D. C.;

(1) Why it is not now, and has not been since August 26, 1935, a public utility within the meaning of the Federal Power Act;

[32] (2) Why it has failed or refused to comply with the Commission's Order No. 42, adopted June 16, 1936, and adopt the uniform System of Accounts prescribed thereby;

(3) Why it has failed to comply with Electric Plant Accounts Instruction 2-D of the Commission's Uniform System of Accounts, and with the Commission's order adopted May 11, 1937;

(4) Why it has failed to apply for and secure the permission of the Commission to amortize the unamortized debt discount and expense applicable to its redeemed and refinanced 3 3/4% First and Refunding Mortgage Bonds, Series E, in accordance with the provisions of Balance Sheet Accounts Instruction 6-E of the Commission's Uniform System of Accounts;

(5) Why it has failed or refused to file rate schedules subject to the jurisdiction of the Commission;

(6) Why it has failed or refused to make proper verification and oath as a public utility in its Annual Reports to this Commission for the years ending December 31, 1937, December 31, 1938, and December 31, 1939;

(7) Why it has failed or refused to make proper attestation and supplemental oath by its President, or other chief officer, in its Annual Report to this Commission for the year ended December 31, 1939;

(8) Why it has failed or refused to make proper certification to Power System Statements FPC Form No. 64 (1937), FPC Form No. 64 (Revised 1938), FPC Form No. 64-A (1938), FPC Form No. 64 (1939), and FPC Form No. 64-A (1939);

(9) Why it has failed or refused to furnish information requested by the Commission with respect to a hurricane and flood investigation conducted in December, 1938;

(10) Why the Commission should not institute appropriate proceedings against it, its officers, or directors for such failure or refusal to comply with applicable orders, requirements, and requests of the Commission;

(B) Nothing contained in this order shall be construed as a waiver or a stay of any of the requirements of any orders or other requests of the Commission which may be applicable to The Connecticut Light & Power Company.

By the Commission.

/s/ LEON M. FUQUAY
LEON M. FUQUAY
Secretary.

(SEAL)

* * * * * * [53]

DESIGNATION OF TRIAL EXAMINER.

By virtue of the order of the Commission adopted November 3, 1939, authorizing Commissioners and others to preside at hearings, and the Commission, by orders adopted *January 7, 28 and March 7, 1941,* having directed that a hearing be held in the above matter, to convene at 9:30 o'clock A.M. on *March 31, 1941, Glen R. Law* is designated as trial examiner to preside at said hearing.

Done, this 11 day of March, 1941, by authority of the Commission.

/s/ LELAND OLDS *Chairman.*

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* * * * * * [69]

June 5th, 1941

ANSWER TO ORDER TO SHOW CAUSE.

The Connecticut Light and Power Company, herein referred to as "the Company", in response to the Order to Show Cause of the Federal Power Commission, entered January 7, 1941 in the above entitled matter, hereby appears specially and for the sole purpose of asserting the lack of jurisdiction in the Commission over the Company or over the subject matter of its above-cited order of January 7, 1941, insofar as the Company is concerned, and without admitting by any allegation herein the jurisdiction of the Commission over the Company respectfully shows:

In answer to Paragraph A(1) of said Order to Show Cause inquiring why it is not now, and has not been since August 6, 1935, a public utility within the meaning of the Federal Power Act, the Company alleges that:

1. The Company is not now and has not been at any time since August 26, 1935, a public utility within the meaning of the Federal Power Act.

[70] 2. The Company does not transmit electric energy in interstate commerce, or sell electric energy at wholesale in interstate

commerce, and it does not own or operate facilities for such transmission or sale.

3. At no time since August 26, 1935, has the Company transmitted electric energy in interstate commerce, nor sold electric energy at wholesale in interstate commerce, or has it owned or operated any facilities for such transmission or sale.

4. All production, transmission, distribution and sale of electric energy in which the Company is engaged, or in which it has been engaged at any time since August 26, 1935, is and has been subject to regulation by the Public Utilities Commission of the State of Connecticut under the laws of said state.

5. All of the facilities of the Company pertaining to electric energy are used in the generation of electric energy, or are used in local distribution, or only for the transmission of electric energy in intrastate commerce.

6. At all times since August 26, 1935, all of the facilities of the Company pertaining to electric energy have been used for the generation of electric energy, or in local distribution, or only for the transmission of electric energy in intrastate commerce.

In answer to Paragraphs A(2) and (3) of said Order to Show Cause inquiring why it has failed or refused to comply with the Commission's Order No. 42, adopted June 16, 1936, and [*71*] adopt the Uniform System of Accounts prescribed thereby, and why it has failed to comply with Electric Plant Accounts Instruction 2-D of the Commission's Uniform System of Accounts, and with the Commission's order adopted May 11, 1937, the Company alleges that:

7. Paragraphs 1–6 hereof are made a part hereof as if fully set forth.

8. The method of accounting of the Company is, and at all times since August 26, 1935, has been, subject to the jurisdiction of the Public Utilities Commission of the State of Connecticut, and said Commission has at all times since August 26, 1935, prescribed such a method.

In answer to Paragraph A(4) of said Order to Show Cause in-

quiring why it has failed to apply for and secure the permission of the Commission to amortize the unamortized debt discount and expense applicable to its redeemed and refinanced 3 3/4% First and Refunding Mortgage Bonds, Series E, in accordance with the provisions of Balance Sheet Accounts Instruction 6-E of the Commission's Uniform System of Accounts, the Company alleges that:

9. Paragraphs 1–6 hereof are made a part hereof as if fully set forth.

10. The Company redeemed and refinanced its 3 3/4% First and Refunding Mortgage Bonds, Series E, with the Series H Bonds. The Company carried over the unamortized debt discount and expense applicable to the Series E Bonds, which is being amortized over the life of the Series H Bonds. It did not obtain permis- [72] sion to do so from the Federal Power Commission, but did obtain such permission and approval from the Connecticut Public Utilities Commission and the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935. At that time the Company was a subsidiary of a registered holding company within the meaning of the Public Utility Holding Company Act. Copies of the applications to and the orders of the Connecticut Public Utilities Commission and the Securities and Exchange Commission have been furnished the Federal Power Commission. In connection with the State application and approval, the Connecticut Commission imposed certain terms and conditions with respect to maintenance and depreciation. The Securities and Exchange Commission, before granting its approval, imposed a condition, pursuant to provisions of Section 12 (c) and Section 20 (a) of the Public Utility Holding Company Act of 1935 to the effect that the Company could not declare or pay dividends on its Common Stock unless the Company lived up to the obligation imposed by the Connecticut Commission as to maintenance and depreciation. The application to the Connecticut Public Utilities Commission, as well as the order of the Connecticut Public Utilities Commission in this matter, were a part of the application to the Securities and Exchange Commission. Both

commissions had full knowledge of the proposed accounting treatment, but saw fit to impose only the conditions above referred to.

In answer to Paragraph A(5) of said Order to Show Cause inquiring why it has failed or refused to file rate schedules subject to the jurisdiction of the Commission, the [73] Company alleges that:

11. Paragraphs 1–6 hereof are made a part hereof as if fully set forth.

12. Pursuant to the statutes of Connecticut and the rules and regulations of the Connecticut Public Utilities Commission, the Company has filed with that Commission all of its proposed rate changes or new rates ten days before their respective effective dates. After the effective dates, it has filed with the Federal Power Commission whenever requested by it all of its rate schedules and also all changes in rate schedules.

The Company has never filed any rate schedule or made any report to the Federal Power Commission on the forms prescribed by Orders Nos. 36, 44 and 50, but it did file with the Federal Power Commission reports and rate schedules listed below.

In May, 1937, two complete sets of rate schedules and rules and regulations for all classes of its service in effect January 1, 1937, on Form 1199 of Federal Power Commission, Bureau of Engineering.

In June, 1938, rate schedules for all classes of service in effect on January 1, 1938, on Form 34 of Federal Power Commission, Bureau of Accounts, Finance and Rates, Division of Rates.

In January and February, 1939, rate schedules for electric service in certain communities, on Federal Power Commission Form 33R.

In January, 1940, rate schedules for electric service in certain communities, on Federal Power Commission Form 33 (Revised 1940).

[74] In January, 1941, rate schedules for electric service in certain communities, on Federal Power Commission Form 33 (Revised 1941).

In January, 1935, all of the then existing contracts of the Company with other utilities, on Federal Power Commission Form No. 2. Since that date it has filed each additional contract between the Company and any other utility.

On August 3, 1937, five statements on Form No. 11-127 which form was prescribed by order of the Federal Power Commission adopted March 23, 1937. These statements covered the production, transmission and utilization of electric energy in its main system (including Central) and its Greenwich, Winsted, Branford and Bristol districts, and covered the years 1934, 1935 and 1936.

In answer to Paragraph A(6) of said Order to Show Cause inquiring why it has failed or refused to make proper verification and oath as a public utility in its Annual Reports to this Commission for the years ending December 31, 1937, December 31, 1938, and December 31, 1939, the Company alleges that:

13. Paragraphs 1–6 hereof are made a part hereof as if fully set forth.

14. The accounts of the Company during the years referred to were not kept in accordance with the accounting orders of the Federal Power Commission applicable to public utilities subject to the provisions of the Federal Power Act. The Company consequently deleted from the form of verification on said Annual Report the words "in accordance with the accounting [75] and other orders of the Federal Power Commission, effective during said period", as a verification without deleting those words could not properly have been made. The words which were deleted, according to the instructions in said form, "may be deleted by respondents which are not public utilities within the purview of the Federal Power Act."

In answer to Paragraph A(7) of said Order to Show Cause inquiring why it has failed or refused to make proper attestation and supplemental oath by its President, or other chief officer, in its Annual Report to this Commission for the year ended December 31, 1939, the Company alleges that:

15. Paragraphs 1–6 hereof are made a part hereof as if fully set forth.

16. In the Company's report for said year, the supplemental oath was not executed by the President or other chief officer of the Company. The supplemental oaths in the 1937 and 1938 reports were executed by P. R. Fleming, Secretary and Treasurer.

17. The Company has at all times believed that the Federal Power Commission was without authority to require a company which was not a "public utility" within the meaning of Part II and Part III of the Federal Power Act to make such a report under oath, but considers it undesirable to make further contest in regard to this matter, and without admitting any failure on its part to comply with any valid law or regulation, its President hereby offers to sign and supple- [76] mental oath on said report, subject to any suitable qualifications.

In answer to Paragraph A(8) of said Order to Show Cause inquiring why it has failed or refused to make proper certification to Power System Statements FPC Form No. 64 (1937), FPC Form No. 64 (Revised 1938), FPC Form No. 64-A (1938), FPC Form No. 64 (1939), and FPC Form No. 64-A (1939), the Company alleges that:

18. Paragraphs 1–6 hereof are made a part hereof as if fully set forth.

19. These reports were signed as having been prepared by W. E. Jones, Statistician, and none of these reports was signed by an executive officer, or attested to by him.

20. The Company has at all times believed that the Federal Power Commission was without authority to require a company which was not a "public utility", within the meaning of Part II and Part III of the Federal Power Act, to have certifications to such Power System Statements made as provided on said forms, but considers it undesirable to make further contest in regard to this matter, and without admitting any failure on its part to comply with any valid law or regulation, it hereby offers to make cer-

tifications to said Power System Statements, subject to any suitable qualifications.

In answer to Paragraph A(9) of said Order to Show Cause inquiring why it has failed or refused to furnish information requested by the Commission with respect to a [77] hurricane and flood investigation conducted in December, 1938, the Company alleges that:

21. Paragraphs 1–6 hereof are made a part hereof as if fully set forth.

22. The information requested by the Federal Power Commission was extremely voluminous and it would have been difficult if not impossible for the Company to have supplied it at the time requested. The Company accordingly referred the Commission to the information with regard to this matter which it had furnished to the Public Utilities Commission of the State of Connecticut. The Company has at all times believed that the Federal Power Commission was without authority to require detailed information in such form from a company which was not a "public utility" within the meaning of Part II and Part III of the Federal Power Act, but considers it undesirable to make further contest in regard to this matter, and without admitting any failure on its part to comply with any valid law or regulation, it hereby offers to give to the Federal Power Commission such further information in regard to the hurricane and flood damage as the Commission may reasonably request.

In answer to Paragraph A(10) of said Order to Show Cause inquiring why the Commission should not institute appropriate proceedings against it, its officers, or directors for such failure or refusal to comply with applicable orders, requirements, and requests of the Commission, the Company alleges that:

[78] 24. Paragraphs 1–6 hereof are made a part hereof as if fully set forth.

25. The Company alleges that none of the orders or requests, set forth in the Order to Show Cause, with which it has failed to comply could properly be made applicable to it by the Federal

Power Commission, and that each such order and request was unauthorized by the Federal Power Act, and that no rule or regulation of the Commission providing for any such order or request was necessary or appropriate for purposes of the administration of said Act.

26. The Company denies that its failure to comply with any orders, requirements or requests of the Commission has been wilful. The Company is willing and anxious to comply with all reasonable requests of the Commission for information as to its business in the past and in the future. The Company hereby offers to stipulate all facts having any bearing on the matters set forth in said Order to Show Cause, and to have the issues determined upon such stipulation of facts rather than a hearing if the Commission is willing to stipulate to all facts which in the opinion of the Company have a bearing on said issues.

THE CONNECTICUT LIGHT AND POWER COMPANY
By C. L. CAMPBELL
C. L. Campbell, President
36 Pearl Street, Hartford, Connecticut.

[79] STATE OF CONNECTICUT
COUNTY OF HARTFORD ss.

C. L. Campbell, being first duly sworn, deposes and says: That he is President of The Connecticut Light and Power Company, respondent herein; that he has read the foregoing Answer and knows the contents thereof and that the same are true to the best of his knowledge and belief.

C. L. CAMPBELL

Subscribed and sworn to before me this 5th day of June, 1941.

MARJORIE J. ZEHNER,
Notary Public.

* * * * * * [92]

June 17, 1941

ORDER AMENDING ORDER TO SHOW CAUSE.

Upon consideration of the Answer to Order to Show Cause filed June 6, 1941, in the above-entitled matter by The Connecticut Light and Power Company;

The Commission *orders* that:

At the public hearing in the above-entitled matter to be held commencing on July 7, 1941, The Connecticut Light and Power Company may make showing in support of the allegations of its aforesaid Answer, as well as in response to the Commission's Order to Show Cause, adopted January 7, 1941, in the said matter.

By the Commission.

LEON M. FUQUAY, *Secretary.*

* * * * * * [269]

UNITED STATES OF AMERICA
FEDERAL POWER COMMISSION

Commissioners

LELAND OLDS, Chairman, CLAUDE L. DRAPER, BASIL MANLY, JOHN W. SCOTT and CLYDE L. SEAVEY.

June 24, 1941

Docket No. IT-5665

In the Matter of

The Connecticut Light and Power Company

ORDER CHANGING PLACE OF HEARING

It appearing to the Commission that:

(a) Hearing in the above-entitled proceeding has heretofore been set to commence July 7, 1941, at 9:45 A.M., in the Hearing Room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, N.W., Washington, D. C.;

(b) The convenience of the interested parties will be better served if the place of the hearing is changed to Hartford, Connecticut;

The Commission *orders* that:

The place of the hearing be changed to the Court Room, in the Federal Building, Hartford, Connecticut, and the said hearing be held commencing July 7, 1941, at 9:45 A.M., Eastern Daylight Saving Time.

By the Commission.

LEON M. FUQUAY, *Secretary.*

* * * * * * [3692]

UNITED STATES OF AMERICA.

FEDERAL POWER COMMISSION.

OPINION No. 75.

Docket No. IT-5665.

In the Matter of

THE CONNECTICUT LIGHT AND POWER COMPANY.

Appearances

For The Connecticut Light and Power Company: Lawrence A. Howard, Esq., Olcott D. Smith, Esq., Claude R. Branch, Esq., and T. J. Davis, Jr., Esq. For the Commission: Howard E. Wahrenbrock, Esq., and Howell Purdue, Esq.

BY THE COMMISSION:

FINDINGS ,

Upon consideration of the Order to Show Cause, issued by this Commission January 7, 1941, in the above entitled proceeding, requiring The Connecticut Light and Power Company (hereinafter sometimes referred to as the "Respondent"), to show cause, if any, why it was not and had not been since August 26, 1935, a public utility within the meaning of the Federal Power Act; why it had failed to comply with Order No. 42, adopted June 16, 1936, and with various other orders and requirements applicable to such public utilities and the nature of such failures; and upon consideration [3693] of the answer filed, the transcript of the hearing held, the exhibits and stipulations received, the memoranda of law and briefs filed, and the transcript of oral argument, the Commission *finds* that:

(1) The Connecticut Light and Power Company is a corporation organized and existing under the laws of the State of Connecticut, having its principal office in the city of Hartford, Connecticut, and engaged in the production, purchase, transmission, distribution, and sale of electric energy.

(2) From and including August 26, 1935, to the date of the hearing, the Respondent continuously sold electric energy in substantial amount to the Borough of Groton, in the State of Connecticut, for resale. The energy so sold was supplied from Respondent's substation at Montville, Connecticut, and was transmitted by means, partially, of such substation facilities, transmission lines (including a 33,000 volt transmission line owned and operated by the Respondent extending from Hallville, Connecticut, to the Trail's Corner substation of the Respondent at Groton), and the Trail's Corner substation facilities at Groton; also by an extension of that line to Groton Long Point and substation facilities at Groton Long Point owned and operated for parts of that period by Respondent.

[3694] (3) From and including August 26, 1935, until February 28, 1941, both inclusive, the Borough of Groton continuously sold to Fishers Island Farms, Inc., and its successor, The Fishers Island Electric Corporation (which corporations are hereinafter referred to without distinction as Fishers Island), a substantial portion of the electric energy which it purchased from the Respondent. Electric energy in substantial amount so purchased by Fishers Island was transmitted from Connecticut and distributed and sold at retail by Fishers Island in the State of New York. The Respondent had knowledge at all times since August 26, 1935, that the Borough of Groton sold to Fishers Island a substantial portion of the electric energy which it purchased from the Respondent and that energy in substantial amount so purchased by Fishers Island was transmitted from Connecticut and consumed in New York.

(4) From August 26, 1935, to February 28, 1941, both inclusive, the Respondent continuously owned and operated facilities at or near Groton and Montville, and between those places, used for the transmission of the electric energy sold to Fishers Island, as aforesaid, as distinguished from local distribution thereof.

(5) From August 26, 1935, to February 28, 1941, both inclusive, the Respondent owned and operated facilities at or near

Groton and Montville, and between those places, for the transmission and sale at wholesale of electric energy transmitted from the [3695] State of Connecticut and consumed in the State of New York by persons other than the transmitter thereof, which facilities were facilities for the transmission and sale at wholesale of electric energy in interstate commerce, and Respondent was, by virtue of its ownership and operation of such facilities, a public utility within the meaning of that term as used in the Federal Power Act.

(6) Since prior to January 1, 1937, the Turners Falls Power & Electric Company, a Massachusetts corporation, and The Connecticut Power Company, a Connecticut corporation, have owned and operated a 66,000 volt double circuit line running from the former's substation at Agawam, Massachusetts, across the Connecticut-Massachusetts boundary to the 66,000 volt bus at the latter's South Meadow substation in Hartford, Connecticut. This double circuit line, known as the C-3 and D-4 lines, in Massachusetts is owned and operated by the Turners Falls Power & Electric Company and in Connecticut by The Connecticut Power Company. The Connecticut Power Company owns and operates a 66,000 volt line running from the 66,000 volt bus at its South Meadow substation to its hydro-electric generating plant at Falls Village, Connecticut, known and hereinafter referred to as the C.P. 1 and C.P. 2 lines. Recently the D-4 line and appurtenant facilities have been altered to operate at approximately 110,000 volts and that line is now connected through substation facilities of The Connecticut Power Company and The Hartford Electric Light Company to the C.P. 1 and C.P. 2 lines.

[3696] (7) The Connecticut Valley Power Exchange is an unincorporated voluntary association, consisting presently, and at all times since June 17, 1936 of The Connecticut Power Company, the Turners Falls Power & Electric Company, and the New England Power Company, which exchange surplus electric energy so that the lowest available incremental cost source is used in supplying their combined load. Electric energy is furnished to the

Exchange and paid for by the Exchange at the incremental cost to the supplying company and the Exchange in turn furnishes it to the receiving company and charges for it at the incremental cost to the receiving company of supplying an equivalent amount of energy from its own generating capacity. After payment of fixed charges and operating costs of the Exchange, the resulting savings are distributed by the Exchange to its members. In the operation of the Exchange electric energy which is transmitted from Massachusetts has regularly, frequently, for substantial periods of time, and in substantial amounts been, and continues to be, supplied to The Connecticut Power Company's South Meadow substation and to its C.P. 1 and C.P. 2 lines by means of the C-3 and D-4 lines, substation facilities, and other appurtenant facilities.

(8) At a point on The Connecticut Power Company's C.P. 1 and C.P. 2 lines, 11.04 miles from that company's South Meadow substation, a tap line 7.53 miles long runs to its West Side substation in Middletown, Connecticut. From the West Side substation [3697] a 13,800 volt line of that company extends to its Wolcott Lane substation in the town of Portland, Connecticut, and thence a similar line extended to that company's Pole 110 in the same town until after July 1, 1939.

(9) From January 1, 1937, to June 30, 1939, both inclusive, the Respondent purchased electric energy for its East Hampton Division in Connecticut from The Connecticut Power Company, supplied at Pole 110 in Portland, which electric energy regularly, frequently, and for substantial periods of time included electric energy in substantial amounts transmitted from Massachusetts by means of the aforesaid substation facilities and C-3, D-4, C.P.1, C.P. 2, tap, and 13,800 volt lines, and appurtenant facilities.

(10) From January 1, 1937, to June 30, 1939, both inclusive, the Respondent continuously owned and operated facilities in its East Hampton District and between that district and the aforesaid Pole 110 used for the transmission of electric energy purchased as aforesaid from The Connecticut Power Company, as

distinguished from local distribution thereof. Such facilities consisted of substation facilities for reducing voltage from 13,800 volts to 4,600 volts at Respondent's Leesville substation, and to 2,300 volts at its East Hampton, Colchester, Comstock Bridge, Collins Hill, and Westchester substations, and the 13,800 volt lines connecting them to the facilities of The Connecticut Power Company at Pole 110.

[3698] (11) From January 1, 1937, until June 30, 1939, both inclusive, the Respondent owned and operated facilities in its East Hampton District, and between that district and the aforesaid Pole 110, for the transmission of electric energy, transmitted from the State of Massachusetts and consumed in the State of Connecticut by persons other than the transmitter thereof, which facilities were facilities for the transmission of electric energy in interstate commerce, and Respondent was, by virtue of its ownership and operation of such facilities, a public utility within the meaning of that term as used in the Federal Power Act.

(12) At a point on The Connecticut Power Company's C.P. 1 and C.P. 2 lines known as Switching Tower 276, 39 miles from that company's South Meadow substation, a tap line 2.24 miles in length extends to the Torrington, Connecticut, substation of The Torrington Electric Light Company, a Connecticut corporation. At this substation The Connecticut Power Company maintains facilities for supplying electric energy from its C.P. 1 and C.P. 2 lines and that tap line to the 2,300 volt bus of The Torrington Electric Light Company. From January 1, 1937, to the date of the hearing The Connecticut Power Company sold electric energy to The Torrington Electric Light Company supplied from the former's C.P. 1 and C.P. 2 lines and the aforesaid tap line to the latter's 2,300 volt bus in its Torrington substation.

[3699] (13) From January 1, 1937, to June 17, 1941, both inclusive, the Respondent purchased, for its Winsted District, from The Torrington Electric Light Company, a substantial portion of the electric energy sold to that company by The Connecticut Power Company as aforesaid. That portion was supplied to the Respond-

ent from the 2,300 volt bus of The Torrington Electric Light Company's Torrington substation. The electric energy so purchased by the Respondent regularly, frequently, and for substantial periods of time included electric energy in substantial amounts transmitted from Massachusetts by means of the aforesaid substation facilities, C-3, D-4, C.P. 1, C.P. 2, and tap lines, and appurtenant facilities.

(14) From January 1, 1937, to June 17, 1941, both inclusive, the Respondent continuously owned and operated facilities in its Winsted District and between that district and the aforesaid 2,300 volt bus of The Torrington Electric Light Company used for the transmission of electric energy purchased, as aforesaid, from The Torrington Electric Light Company, as distinguished from local distribution thereof. Such facilities included a substation at Torrington with facilities for raising voltage from 2,300 to 27,600 volts, a substation at Winsted with facilities for lowering voltage from 27,600 to 4,600 volts, and a 27,600 volt double circuit wood pole line 10 miles or more in length, between those two substations.

[*3700*] (15) From January 1, 1937, to June 17, 1941, both inclusive, the Respondent owned and operated facilities in its Winsted District, and between that district and the aforesaid 2,300 volt bus of The Torrington Electric Light Company, for the transmission of electric energy transmitted from the State of Massachusetts and consumed in the State of Connecticut by persons other than the transmitter thereof, which facilities were facilities for the transmission of electric energy in interstate commerce, and Respondent was, by virtue of its ownership and operation of such facilities, a public utility within the meaning of that term as used in the Federal Power Act.

(16) At a point on The Connecticut Power Company's C.P. 1 and C.P. 2 lines, known as Tower 474, approximately 25 miles from that company's South Meadow substation, a tap line approximately 1.83 miles in length runs to the Respondent's substation in about the center of Bristol, Connecticut.

(17) On December 16, 1936, The Connecticut Power Company, as seller, and the Respondent, as buyer, entered into a contract

effective January 1, 1937, for a period of ten years for the supply of the entire requirements of the Respondent's Bristol District by The Connecticut Power Company. From January 1, 1937, to the present time, the Respondent has purchased and continues to purchase electric energy under that contract for its Bristol District supplied to [*3701*] its Bristol substation, which electric energy regularly, frequently, and for substantial periods of time, has included electric energy in substantial amounts transmitted from Massachusetts by means of the aforesaid substation facilities of The Connecticut Power Company, the C-3, D-4, C.P. 1, C.P. 2, and tap lines, and appurtenant facilities.

(18) From January 1, 1937, to the present time the Respondent has continuously owned and operated substation facilities in Bristol used for the transmission of electric energy, purchased as aforesaid from The Connecticut Power Company, as distinguished from local distribution thereof. Such facilities consist of leads from the aforesaid tap line which runs to the substation from the C.P. 1 and C.P. 2 lines, lightning arrestors, disconnects, oil circuit breakers, busses, step-down transformers, and appurtenant structures and facilities of the outdoor substation; a synchronous condenser and appurtenant facilities in the adjacent substation building; and facilities connecting the synchronous condenser with the outdoor substation facilities referred to.

(19) From January 1, 1937, to the present time the Respondent has continuously owned and operated and now owns and operates facilities in Bristol, Connecticut, for the transmission of electric energy, transmitted from the State of Massachusetts [*3702*] and consumed in the State of Connecticut by persons other than the transmitter thereof, which facilities were and are facilities for the transmission of electric energy in interstate commerce and Respondent was and continues to be, by virtue of its ownership and operation of such facilities, a public utility within the meaning of that term as used in the Federal Power Act.

(20) The respondent has omitted and failed to comply with the Commission's Order No. 42, adopted June 16, 1936, and effective

January 1, 1937; to comply with the Commission's order of May 11, 1937, concerning Electric Plant Instruction 2-D, Uniform System of Accounts; to comply with other orders supplemental to said Order No. 42; to comply with the accounting requirements and requirements incidental thereto prescribed by such orders; and to comply with numerous other orders and requirements prescribed by the Commission applicable to Respondent as a public utility.

OPINION

Our order of January 7, 1941, that the Respondent, The Connecticut Light and Power Company, show cause why it had not complied with numerous orders and requirements imposed by or pursuant to the Federal Power Act, followed Respondent's refusal to adopt the Commission's Uniform System of Accounts in its accounting and to submit proposals for reclassifying its accounts accordingly.

[3703] When the Federal Power Act became law on August 26, 1935, the Respondent made a gesture of terminating its transmission and sale of electric energy in interstate commerce. It was an expensive gesture—that is expensive ultimately to the electric rate payers—for it meant that they would no longer benefit from economies resulting from Respondent's participation in the Connecticut Valley Power Exchange.[1] But it was only a gesture, for while respondent did cut its interconnection near New Britain, Connecticut, with The Connecticut Power Company's Hartford-Falls Village transmission line, whereby it had exchanged electric energy with other members of the Exchange in Massachusetts and Connecticut, it did not cut other interconnections over which interstate energy flowed.

One such interconnection which was not severed was that with the Borough of Groton whereby Respondent supplied electric energy from its main interconnected transmission system to the

[1] In the twelve months ending August, 1935, when the Public Utility Act of 1935 became law, Respondent's share, alone, of Exchange savings amounted to more than $84,000.

Borough. The Borough in turn, admittedly within the knowledge of Respondent (Tr. 1905; 1914; 1679–1680; 394), transmitted and sold a substantial part of the electric energy which it purchased from Respondent to the electric utility serving customers on Fishers Island, New York, off the shore of Connecticut, by means of an interconnection at Groton Long Point in Connecticut and submarine cables.

[*3704*] Another such interconnection which Respondent did not cut at that time was at a point in the town of Portland, near Middletown, Connecticut, whereby it obtained energy from The Connecticut Power Company to serve its customers in East Hampton, Colchester, Leesville and vicinity. Neither did Respondent cut its interconnection at Torrington whereby it obtained energy from The Torrington Electric Light Company to serve its customers in Winsted and vicinity. (That company, in turn, obtained the energy from The Connecticut Power Company.) Nor did it cut its interconnection at Bristol whereby it obtained energy from The Connecticut Power Company to serve its customers there.

The Portland, Torrington and Bristol interconnections supplied Respondent's isolated systems at those points from The Connecticut Power Company's Hartford-Falls Village line already referred to, over which the Respondent had received energy from the Connecticut Valley Exchange. A transmission line from Agawam, Massachusetts, to Hartford, Connecticut, interconnected at Hartford with the Hartford-Falls Village line at all times since January 1, 1937.

In general, each of those three interconnections differed from that at New Britain in that Respondent could not at once arrange for any alternative supply of electric energy to take the place of those interconnections. At Groton, Respondent's contract [*3705*] was not terminable until April 1, 1940, and at Bristol not until January 1, 1947. At East Hampton and at Winsted, construction of alternative transmission lines to supply those areas from Respondent's main interconnected transmission system would have required several months to complete.

Under these circumstances, Respondent seems to have assumed that it had a choice of policies: (1) it could comply with all requirements under the Act until it should have severed those interconnections and thereby have ceased to own or operate facilities for the transmission or sale of electric energy in interstate commerce; or (2) it could carefully watch the administration of the Act in practice; could postpone outright refusal to comply by a temporizing attitude of responding in some fashion to those requirements of the Commission which did not involve any issue deemed important, thus deferring as long as possible a showdown on the jurisdictional question; and in the meantime it could move as rapidly as circumstances would permit and the assiduity (and availability of funds) of the Commission should dictate, to eliminate interconnections on which the Commission might, in practice, hold it to be a "public utility" under the Act.

That is to say, Respondent appears to have assumed that it had a choice of obeying the law or avoiding being caught. Respondent chose to try the latter alternative. It filed its [*3706*] Annual Report for 1937, but did so over four months late and without the form of verification required of "public utilities"; for 1938, but three months late and likewise without that verification; the same for 1939, with the further omission of the supplemental verification on oath by the president of the Respondent. Its record of filings of Power System Statements is similar, and necessary corrections were made only after repeated letters of inquiry by the Commission's staff. In another instance, the staff was still seeking to obtain typical bill data from the Respondent after all other companies in the country in the same category had filed their data. In July, 1941, at the hearing in the present proceeding, Respondent for the first time offered to comply with a request originally made December 2, 1938, for data on the effect of a flood, hurricane and tidal wave on electric service. Five months were consumed in responding to the Commission's inquiry of November 16, 1939, as to the status of the Respondent's original cost studies necessary to the required reclassification of its sys-

tem of accounts. Its response when finally made indicated that it would not comply with accounting requirements of this Commission.

Meanwhile, on July 1, 1939, Respondent severed its interconnection in the town of Portland, "one of the considerations" for so doing admittedly (Tr. 966) being its policy to avoid being held by this Commission to be engaged in interstate commerce.

[*3707*] When the contract with the Borough of Groton expired in 1940, Respondent would not enter into a new contract while the Borough continued to sell to the Fishers Island company. This was done, admittedly (Tr. 967), in accordance with Respondent's policy to avoid being held by this Commission to be engaged in interstate commerce. Sales by the Borough to the Fishers Island company actually stopped within two months after we issued our show cause order initiating this proceeding.

Finally, on June 17, 1941, less than three weeks before the hearing in this proceeding, Respondent ceased to receive electric energy at Torrington supplied from the Hartford-Falls Village line, shortly after Commission staff engineers showed interest in the Torrington interconnection by a visit to Torrington in the course of their investigation of Respondent's facilities. To procure a temporary alternative supply of electric energy for Winsted Respondent agreed to pay The Torrington Electric Light Company extra to supply electric energy generated by that company's steam generators in Torrington which were normally not operated theretofore. Special temporary connections were made in the Torrington substation to do this in such a way as to avoid intermingling the electric energy so produced with that still supplied to The Torrington Electric Light Company for its own needs from the Hartford-Falls Village line. Switches in the substation circuits [*3708*] whereby Respondent had formerly been supplied from that line were opened. Here again an admitted purpose (Tr. 181; 191–192) was to avoid being held by the Commission to be engaged in interstate commerce.

We are not satisfied that the mere opening of switches and

utilization of an alternative (and, as the evidence shows, unreliable) intrastate source of supply over temporary facilities is sufficient to terminate the status of Respondent's Torrington-Winsted facilities as facilities for the transmission of electric energy in interstate commerce. From another view, the facilities formerly used may now be permanent facilities for emergency use and, not having been authorized by this Commission under the last clause of Section 202(d), may be sufficient to establish jurisdiction to the present time. However, in view of other facts in the case, we have not undertaken to decide that question.

Only at Bristol, where Respondent's contract still had some time to run, had Respondent, at the opening of the hearing, not severed its interconnections over which interstate energy flowed.

By discontinuing these interconnections or interstate transactions by means thereof, at Groton, Portland, and Torrington, Respondent impliedly recognized that it had beeen subject or at least that it probably would be held to be subject to the regulatory provisions of the Act; *i.e.*, that there was interstate energy [*3709*] supplied at those interconnections, and that Respondent owned or operated facilities for the transmission of that energy. The record confirms those facts.

At Groton Respondent admits, as we have said, the out-of-state destination of electric energy continuously supplied in sufficient amounts to meet the needs of the customers on Fishers Island from before the enactment of the Act until February, 1941. At the other interconnections the testimony of Commission staff engineers based on a study of transactions beginning January 1, 1937, establishes that regularly, frequently, for substantial periods of time, and in substantial amounts, electric energy generated in Massachusetts was supplied to Respondent for distribution and sale to its customers in Connecticut, sometimes mixed with energy generated in Connecticut, sometimes not mixed. That is to say, at times, electric energy generated in Massachusetts, alone, was supplying Respondent's loads at those interconnections.

The record also establishes that Respondent owned and operated facilities for the "transmission" of that interstate energy. In considering this subject it is necessary to examine somewhat closely the scope of "transmission of electric energy in interstate commerce" within the purview of the Act (as distinguished from "generation" at the one end and "local distribution" at the other). The Federal Power Act declares that "electric energy [*3710*] shall be held to be transmitted in interstate commerce if transmitted from a State and consumed at any point outside thereof." Such transmission, in our opinion, extends from the generator, where generation is complete,[1] to the point where the function of conveyance in bulk over a distance, which is the essential characteristic of "transmission", is completed and the process of subdividing the energy to serve ultimate consumers, which is the characteristic of "local distribution", is begun[2]. This necessarily implies and requires that the facilities (substations, including transformers and other equipment) that are required to raise the voltage (and reduce the current) so that energy may be transmitted in bulk with minimum line losses; the facilities (lines) that actually convey the energy in bulk from point to point; and the facilities to lower the voltage (and raise the current) again, so that the energy may readily be subdivided and distributed, are facilities for transmission. In the same category of transmission facilities are the several devices used for metering and controlling the flow of bulk energy; the devices, such as synchronous condensers, for limiting the loss of voltage and energy in the line; devices for weather protection; and the devices which are necessary to keep the [*3711*] parts of the interconnected system or systems "in tune" and prevent actual physical disruption or faulty operation of the delicately balanced apparatus which makes it possible for electric energy to perform its miracles.

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[1] *Utah Power & Light Co.* v. *Pfost,* 286 U.S. 165, 181.

[2] *Southern Gas Corp.* v. *Alabama,* 301 U.S. 148, 155; *East Ohio Gas Co.* v. *Tax Commission,* 283 U.S. 465, 471.

This fundamental conception of the essential component facilities for the electrical transmission of energy will be clarified if we consider what would have to be done, what facilities would have to be added if the generator located in the heart of a local distribution system were removed to a distant point. Respondent's own engineering and expert witnesses corroborated the testimony of the Commission engineers, that in such a case it would be necessary to add to the facilities for generation and for local distribution a step-up substation, a transmission line and a step-down substation. These facilities are necessarily used where electric energy in bulk is commercially conveyed over a distance too great for economical conveyance at generator voltage.

In the case of telegraph and telephone the Courts have long recognized that, where interstate transmission is involved, the facilities for such transmission include not only the sending devices, and the interstate wires, but also the facilities at the receiving end. *Western Union Telegraph Co.* v. *Foster,* 247 U.S. 105; see *Western Union Telegraph Co.* v. *Pendleton,* 122 U.S. 347; *Smith* v. *Illinois Bell Telephone Co.* (1930) 282 U.S. 133, 150. The complete absence of interstate wires in radio transmission does not [*3712*] alter the situation. *United States* v. *American Bond & Mortgage Co., et al.* (D.C., N.D. Ill., E.D., 1929), 31 F. 2d 448, 454; *National Broadcasting Co., Inc.* v. *Board of Public Utility Com'rs of New Jersey, et al.* (D.C., D.N. Jer. 1938), 25 F. Supp. 761, 763.

In view of the skepticism and unbelief with which the world received the announcement of the possibility of electrical communication by "wireless", which is now accepted as commonplace, it would be rash to assume that the transmission of electric energy for motors, heaters and lights will never be freed of the limitations of present day transmission lines. If that should take place, clearly it could not be contended that the mere elimination of the lines would mean that the electric energy was no longer transmitted in interstate commerce, or that the "transmitter" and

other devices by which such energy would be sent and received would not be regarded as "facilities for transmission".

Upon the record before us, we are constrained to hold that "facilities for transmission" include not merely the wires by which energy is conveyed in bulk over a distance but all the devices necessary and useful to accomplish that conveyance.

This is not to say that there may not be transmission where there is no stepping up of the voltage by transformers. Generator voltages may be high enough for transmission over some distances. It does mean that, where transformers or other auxiliary devices are necessary or are used to make the transmission of [*3713*] electric energy in bulk over a distance commercially feasible, such devices must be classified as facilities for transmission. Thus the facilities for raising the voltage at which energy is supplied to a line (as at Torrington) and for lowering the voltage at which energy is received from the line, as at Winsted, at East Hampton and other points in that vicinity, at Bristol, and at Fishers Island, come within this classification.

We have, therefore, concluded with respect to the energy transactions at Groton, for example, that the electric energy consumed by customers on Fishers Island in New York was transmitted from Respondent's generators in Connecticut, through its step-up substation, and 33 Kv transmission lines to Groton Long Point; thence by 33/6.9 Kv step-down transformers (owned by Respondent for a short time after the enactment of the Act), 6.9 Kv line owned by the Borough, 6.9 Kv submarine cables across the Connecticut-New York boundary, and other facilities owned by the Fishers Island company (including further step-down transformers) to the points at which subdivision marks the beginning of local distribution on Fishers Island; and that the facilities between the generators and the points at which local distribution begins are facilities for transmission of electric energy in interstate commerce, regardless of changes in title or custody, en route. *Illinois Natural Gas Co.* v. *Central Illinois Public Service Co.*, 314 U.S.—, (decided January 5, 1942), and cases there

cited; [3714] *People's Natural Gas Company* v. *Federal Power Commission* (Ct. of App., D.C. No. 8048, decided April 13, 1942).

We may point out that pursuant to an application made by the company serving Fishers Island we have heretofore, under Section 203 of the Federal Power Act, authorized and approved the sale of the part of such facilities owned by that company, as being subject to our jurisdiction. (*Application of Fishers Island Farms,* Docket No. IT-5645, October 15, 1940).

We turn now to the defenses by which Respondent seeks to justify its conduct. It contends that its sale of electric energy to the Borough of Groton was not a "sale at wholesale" because made to a municipality, and it cites the definitions in the Act of the terms involved. We have previously explained our reasons for rejecting such a contention. See our Opinion No. 43, *City of Los Angeles, et al.* v. *The Nevada-California Electric Corporation,* Docket No. IT-5512, January 25, 1940, and Opinion No. 45, *In the Matter of Otter Tail Power Company,* Docket No. IT-5544, May 1, 1940. As this contention is based solely upon the definitions of "sale at wholesale", it obviously cannot apply to "transmission in interstate commerce" even though such transmission is to a municipality.

Respondent's contentions that it is subject to regulation by the Public Utilities Commission of the State of Connecticut and therefore not subject to the regulation provided by the Federal [3715] Power Act must be rejected. *Northwestern Electric Company* v. *Federal Power Commission* (C.C.A. 9th, No. 9756, February 13, 1942); *In the Matter of The Hartford Electric Light Company,* Docket No. IT-5560, decided October 21, 1941, reaffirming decision of February 25, 1941; Opinions Nos. 58-A and 58.

Respondent also repeats the argument, rejected in our decision last referred to, that transformers bring about such a change in the identity or form of electric energy that they mark the terminus of the interstate commerce in the electric energy which crosses

the State boundary. Nothing in this record alters our opinion already expressed that this contention is untenable.[1]

Finally, we notice the contention that transmission of electric energy from points of generation in Massachusetts to points of utilization in Connecticut is not "uniquely demonstrable", cannot be verified by physically observable facts, and hence that the jurisdiction of this Commission cannot be "proved". The contention seeks to exploit the fact that electric [*3716*] energy is not in itself susceptible to direct physical observation.

Respondent's expert witnesses admit that where the readings of watt or watt-hour meters are verifiable by physically observable facts, as at generators and at consumers' appliances where the equivalent mechanical or heat energy can be physically measured and compared with the watt and watt-hour meter readings, such readings are "provably" accurate. They do not claim that there is any more reason for doubting their accuracy at other points, but merely that that accuracy cannot be proved at other points as it can be at generators and at consumers' appliances—or rather, cannot be proved in the absolute sense which Respondent's contention assumes and seeks to have us accept as necessary. But such a degree of proof—proof beyond *any* doubt, reasonable or unreasonable—is not required.

The conception advanced by Respondent's expert witnesses that over and above the flow of electric energy on a circuit shown by watt and watt-hour meters there may be postulated other flows and counterflows not shown by the meters, is wholly supposititious and not supported by the commercial practice of the electric utility industry. That practice is to accept such meter readings as showing the direction in which electric power or energy is supplied, and the total amount supplied, as a basis of payment

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[1] See: *Utah Power & Light Co.* v. *Pfost*, 286 U.S. 165, 172, 181; *Mill Creek Coal & Coke Co.* v. *Public Service Commission*, 84 W. Va. 662, 100 S.E. 557, 560–561; *Western Union Telegraph Co.* v. *Foster*, 247 U.S. 105, 112–113; *Illinois Natural Gas Co.* v. *Central Illinois Public Service Co.*, 314 U.S. (decided January 5, 1942).

for energy bought and sold in the countless [*3717*] transactions upon which the industry's revenues depend. Utilizing the same showings, by such meters, of direction and amount of flow of energy at points on the circuit from Massachusetts to the Portland, Torrington and Bristol interconnections and on each tap where energy might leave or enter the circuit, Commission staff engineers "traced" the flow of electric energy from Massachusetts to each of those interconnections. In so doing they were using meter readings at each point for the same purpose for which such readings are commonly used in the industry, *i.e.*, to show direction and amount of flow of energy. Their reliability for those purposes in the commercial transactions of the industry is a sufficient guarantee of their reliability and appropriateness for the same purposes in the regulation of the industry.

We find significant confirmation of the traceability of electric energy in the testimony of the engineer who had been the manager of The Connecticut Valley Power Exchange for fifteen years. He explained that the operations of that Exchange are scheduled so that the lowest incremental cost energy available from the combined generating facilities of the members of the Exchange is utilized to supply their combined loads. To determine which particular generator shall be used, however, it is necessary, according to his testimony, to take into account not merely the incremental cost of generation of energy at the generator [*3718*] in question but also the energy losses entailed in the transmission of that energy over the transmission facilities used to supply the particular load it will carry.

The fact that the actual utility operations by which energy is supplied to Respondent's facilities over the interconnections in question, are scheduled on a basis which takes into account energy losses entailed by the flow of energy from a particular generator over a particular path to a particular load demonstrates that for practical purposes the flow of energy *is* traced, notwithstanding the testimony of Respondent's experts that such tracing is not "uniquely demonstrable by physically verifiable facts".

That Respondent's expert and other witnesses did not testify that the method of tracing the flow of electric energy used by the Commission's staff engineers was erroneous, is, under the circumstances, highly significant.

It appears, from the record before us, that the views of Respondent's experts were limited to observing solely the mathematical equality, or lack of equality, of generation and load. Such a method, it was admitted, would permit allocating to a generator in Hartford, Connecticut, the supply of a load in Shanghai, China, and to the Shanghai generator the supply of the load in Hartford, if such equality were observed, notwithstanding the fact that the Hartford generator appears to be electrically connected [*3719*] to the load in Hartford and the Shanghai generator to the load in Shanghai, while there appears to be no electrical connection between Shanghai and Hartford. An expert's opinion which regards such an unreal postulate as equally valid with the conclusion that the respective loads are carried by the local generators, as shown by meters on the connecting electric circuits, appears to us wholly worthless for the practical purpose of administering the Federal Power Act.

The Commission, in its initial cases involving the determination of its jurisdiction, has admitted such testimony at great length, not only in an excess of "due process" caution, but also to give abundant opportunity for testing these contentions. Patience may, however, cease to be commendable.[1] The courts will not condone the unrestrained augmentation of the record which they must consider. We think that the results in this case demonstrate that it may be necessary hereafter to apply reasonable limits to the testimony of so-called "experts".

It is abundantly clear that Respondent was a "public utility" on June 16, 1936, when our Order No. 42 prescribing the Uniform System of Accounts for public utilities was issued; on January 1,

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[1] *Cf. Alabama Power Company* v. *Federal Power Commission,* (U.S. Ct. of App., D.C., March 30, 1942).

1937, when it became effective; on May 11, 1937, when we issued our further order with respect to Electric Plant Accounts [*3720*] Instruction 2-D of the Uniform System of Accounts, and continuously through January 1, 1939, when reclassification of accounts in accordance with the foregoing orders was required to be completed; that there was no excuse for its failure to comply; and that it should be required to make good its omission without further delay and as of the time compliance was originally required.

An order will issue accordingly.

LELAND OLDS, *Chairman*
CLAUDE L. DRAPER, *Commissioner*
BASIL MANLY, *Commissioner*
JOHN W. SCOTT, *Commissioner*
CLYDE L. SEAVEY, *Commissioner*

Dated at Washington, D. C. this 15th day of May, 1942.

J. H. GUTRIDE
Acting Secretary

[*3721*] UNITED STATES OF AMERICA.
FEDERAL POWER COMMISSION.

Commissioners

Leland Olds, Chairman, Claude L. Draper, Basil Manly, John W. Scott and Clyde L. Seavey.

May 15, 1942.

DOCKET NO. IT-5665

In the Matter of

THE CONNECTICUT LIGHT AND POWER COMPANY

ORDER REQUIRING COMPLIANCE WITH ORDER NO. 42 AND ORDERS SUPPLEMENTAL THERETO.

Having on this date made and entered its findings and opinion (Opinion No. 75) in the above-entitled matter, hereby incorporated by reference as a part hereof, the Commission *orders* that:

(A) The Respondent is hereby required to comply with the aforesaid Order No. 42, order of May 11, 1937, and other orders supplemental to said Order No. 42; and to comply with the accounting requirements prescribed thereby, applicable to it as a public utility within the meaning of that term as used in that Act, as of the effective dates of such orders.

(B) The Respondent shall, within 90 days from the date of this order, file the data and information required by Electric Plant Accounts Instruction 2-D of the Uniform System of Accounts, and the aforesaid order of May 11, 1937.

By the Commission.

J. H. GUTRIDE,
Acting Secretary.

* * * * * * [3771]

UNITED STATES OF AMERICA.
FEDERAL POWER COMMISSION.

Commissioners

Leland Olds, Chairman, Claude L. Draper, Basil Manly and Clyde L. Seavey.

June 23, 1942

DOCKET NO. IT-5665.

In the Matter of

THE CONNECTICUT LIGHT AND POWER COMPANY

ORDER MODIFYING ORDER OF MAY 15, 1942, AND OTHERWISE DENYING PETITIONS FOR REOPENING, REHEARING AND STAY.

Upon the Petition for Reopening the Proceeding to Take Further Evidence and the Petition for Rehearing and Stay of Order, filed June 13, 1942, by The Connecticut Light and Power Company, Respondent in the above-entitled proceeding, with respect to the Commission's Findings, Opinion and Order of May 15, 1942;

It appearing that:

(a) The alleged facts which Respondent seeks opportunity to show by reopening the proceeding are irrelevant to the Findings and Order entered May 15, 1942, in the above-entitled proceeding;

(b) It is necessary to carry out the provisions of the Federal Power Act and in the public interest that all "public utilities" under the Federal Power Act reclassify their accounts and maintain their accounts in accordance with the Uniform System of Accounts and other requirements prescribed by the orders referred to in the aforesaid order of May 15, 1942, without any delay not reasonably necessary, and this applies as to the Respondent from and after the date upon which the Commission's

determination that Respondent is such a "public utility" shall have become finally effective;

(c) With respect to the aforesaid Findings and Order of May 15, 1942, as modified hereby, no facts have been presented or alleged in support of the application for rehearing which would justify vacating, setting aside, annulling, or staying the same, and no principles of law or contentions stated which were not fully considered by the Commission before it entered its aforesaid Findings, Opinion and Order;

[3772] The Commission *orders* that:

(A) Paragraph (B) of the aforesaid order of May 15, 1942, is modified to read as follows:

"(B) Within 60 days after the date hereof as modified (June 23, 1942), if no proceeding for review of this order shall duly have been commenced in a Court of competent jurisdiction, or, if such a proceeding shall be commenced, then within 60 days after the judgment and decree of such Court shall have become finally effective, affirming this order, Respondent shall commence the studies and work necessary to comply with this order and shall thereafter prosecute and complete the same within such period of time as the Commission shall determine to be reasonable."

(B) Respondent's aforesaid Petition to Reopen the Proceeding and Petition for Rehearing and Stay of Order, otherwise than as provided in paragraph (A) hereof, be and they hereby are denied.

By the Commission.

LEON M. FUQUAY, *Secretary.*

* * * * * * [97]

STIPULATION.

In accordance with and subject to the Rules of Practice and Regulations of the Federal Power Commission, as amended, it is hereby stipulated by and between counsel for The Connecticut Light and Power Company (hereinafter sometimes referred to as the Respondent) and counsel for the Federal Power Commission (hereinafter sometimes referred to as the Commission) as follows hereinafter, subject, however, to the reservation that counsel for the Respondent or counsel for the Commission may object to the admissibility of any part of this stipulation on the ground that it is immaterial or irrelevant:

1. Except as otherwise specifically appears hereinafter, the statements in paragraphs 2 to 6 hereof, inclusive, and 47, were true as to all times since August 26, 1935, and the use therein of the present tense shall be understood to include the entire period since August 26, 1935.

2. The Respondent is a corporation organized and existing by virtue of special acts of the General Assembly of the State of Connecticut. Its principal executive offices are at 36 Pearl Street, Hartford, Connecticut.

3. The Respondent, until about April 18, 1941, was a subsidiary company of a registered holding company (The United Gas Improvement Company) as defined in the Public Utility Holding Company Act of 1935 and also a subsidiary, as that term is defined in that Act, of the United Corporation, a registered holding company.

4. The business done by the Respondent consists principally of the production, purchase, transmission, distribution, and sale of electric energy and gas for residential, commercial, industrial, and municipal purposes and the sale of electric energy at wholesale in the State of Connecticut. Since its organization, the Respondent has acquired by purchase, by merger, or under lease

the properties and franchises of numerous electric and gas companies in the area now embraced within the Respondent's territory. The territory served by the Respondent with electric energy or gas, or both, covers approximately 3,235 square miles with a population of about 703,000 based on the 1940 Federal census, not [98] including the territory served by other Connecticut companies and municipalities purchasing substantially all of their requirements from the Respondent.

5. Electric service is supplied by the Respondent in 107 towns, cities or boroughs of Connecticut with a population of about 660,000 based on the 1940 Federal census, not including a population of about 130,000 served by other Connecticut companies and municipalities purchasing substantially all of their electric energy requirements from the Respondent. The territory served directly by the Respondent covers a substantial part of the State of Connecticut, including the cities of Bristol, Meriden, New Britain, Norwalk, Putnam, Rockville, Waterbury, Willimantic and Winsted. Electric energy is supplied at wholesale to certain other companies and municipalities. Approximately 80 per cent of the electric energy requirements of the Respondent is produced by it the balance being purchased from other companies.

6. A substantial part of the properties of the Respondent is held under a 999-year lease from Connecticut Railway & Lighting Company expiring in the year 2905. The rest of the property operated by the Respondent is directly owned by it. All of the property of the Respondent, including that held under the 999-year lease is located wholly in the State of Connecticut.

7. The Commission adopted and promulgated its Order No. 42 on June 16, 1936, prescribing a "Uniform System of Accounts for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, Effective January 1, 1937". Said System of Accounts provided that the System of Accounts thereby prescribed should be applicable among others to "public utilities, as herein defined". It contained the following definition: " 'Public utility' means any person who owns or operates facilities sub-

ject to the jurisdiction of the Commission under the Federal Power Act. (See section 201(e) of said act.)" Said System of Accounts provided that it should apply, among others, to such utilities having annual electric operating revenues of $750,000 or more determined as therein provided. The annual electric operating revenues of the Respondent so determined have been in excess of $750,000 at all times since the adoption of Order No. 42.

8. A copy of the Commission's Order No. 42 and two printed copies of the "Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act" were mailed to the Respondent on October 19, 1936, at its proper address and in regular manner.

[99] 9. The Commission adopted and promulgated its Order No. 43 on December 31, 1936, prescribing certain amendments to the Uniform System of Accounts prescribed by Order No. 42.

10. On January 6, 1937, a copy of the Commission's Order No. 43 and a copy of the amendments prescribed thereby to the Uniform System of Accounts were mailed to the Respondent by registered mail and a receipt therefor by the Respondent was returned to the Commission.

11. The Commission adopted and promulgated its Order No. 42-A on July 11, 1939, supplementing the text of the account entitled "Electric Plant Acquisition Adjustments" of the Commission's Uniform System of Accounts.

12. On July 19, 1939, a copy of the Commission's Order No. 42-A was mailed to the Respondent by registered mail and a receipt therefor by the Respondent was returned to the Commission.

13. The Commission adopted and promulgated its Order No. 45 on January 13, 1937, prescribing a list of units of property for use in connection with the Commission's Uniform System of Accounts.

14. A copy of the Commission's Order No. 45 and a copy of the list of units prescribed by that Order were mailed to the Re-

spondent on January 22, 1937, by registered mail and a receipt therefor by the Respondent was returned to the Commission.

15. The Respondent has not complied and is presently not complying with the Commission's Orders No. 42, 42-A, 43 and 45.

16. The Commission adopted and promulgated its Order entitled "Electric Plant Instruction 2-D—Uniform System of Accounts" on May 11, 1937, prescribing certain additional requirements with respect to the submission of data required by that Instruction.

17. An employee of the Federal Power Commission who was at the time employed in what was known as the "Records Section" of the Secretary's office would testify that she and another employee of the "Records Section" were present when copies of the aforesaid order of May 11, 1937, together with letters of transmittal thereof dated May 22, 1937, signed by Leon M. Fuquay, Acting Secretary, and addressed "To all Public Utilities", were placed in franked white envelopes which had been addressed to numerous companies and the envelopes sealed; that she thereupon [*100*] prepared a list of the addressees to whom such envelopes were respectively addressed, by copying the name and address which appeared on each of those envelopes as they appeared there; that she and the other employee then re-checked the list against the envelopes and found it accurate, after which she attached the said list to a copy of the aforesaid letter and order; that she and the other employee then bundled the said envelopes together and took them to the Commission's mailing room and that the list and attached copy of letter and order were sent to the Commission's files.

An employee of the Federal Power Commission who was at the time employed in the Commission's mailing room would testify that on receipt of such bundles of envelopes in the Commission's mailing room it was the regular and established practice of himself and others employed in the mailing room, after weighing them in gross, to place them in mail sacks and close the sacks, whereupon the closed sacks were taken by messenger of the Federal Power

Commission to the Post Office and there deposited for delivery to the addressees.

A file designated as "File No. 64-2a Original Cost under Electric Plant Instruction 2-D, Miscellaneous" of the Commission's official files, contains a copy of said order of May 11, 1937, and said transmittal letter of May 22, 1937, to which is attached a list of companies including the following: "Connecticut Light & Power Co., The; 36 Pearl St., Hartford, Conn." Such copies and list record the mailing of such order and letter of transmittal to the companies appearing on such list at the addresses given, under and in accordance with the regular and established practices of the Federal Power Commission.

18. The Respondent has not complied with and is presently not complying with the Commission's Order of May 11, 1937, entitled "Electric Plant Instruction 2-D—Uniform System of Accounts."

19. The Commission adopted and promulgated its Order No. 36 on December 16, 1935, relating to the filing of rate schedules under Section 205 of the Federal Power Act and monthly reports in connection therewith and on February 4, 1936, the Commission amended its Order No. 36 in certain respects and readopted and promulgated said order.

20. On December 21, 1935, a copy of the Commission's Order No. 36 was mailed to the Respondent by registered mail and a receipt therefor was returned to the Commission.

21. The Commission adopted and promulgated its Order No. 44 on December 31, 1936, prescribing Rules of Practice and Regulations with approved forms revised to January 1, 1937, and [*101*] rescinding Order No. 36. Rule 205, thereby prescribed related to the filing of rate schedules under Section 205 of the Federal Power Act and monthly reports in connection therewith.

22. On January 22, 1937, a copy of the Commission's Order No. 44 and of the Rules of Practice and Regulations, With Approved Forms prescribed thereby were mailed to the Respondent

by registered mail and a receipt therefor by the Respondnt was returned to the Commission.

23. The Commission adopted and promulgated its Order No. 50 on April 19, 1938, prescribing Rules of Practice and Regulations, With Approved Forms (Effective June 1, 1938, to supersede the Rules of Practice and Regulations, with Approved Forms prescribed by the Commission's Order No. 44. Part 35 of the Rules of Practice and Regulations so prescribed related to the filing of rate schedules under Section 205 of the Federal Power Act and monthly reports in connection therewith.

24. On May 27, 1938, a copy of the Rules of Practice and Regulations prescribed by the Commission's Order No. 50 was mailed to the Respondent by registered mail and a receipt therefor by the Respondent was returned to the Commission.

25. The Respondent has never filed any rate schedule or made any report on any form prescribed by Orders Nos. 36, 44 and 50.

* * * * * * [*104*]

47. The State of Connecticut has a commission known and designated as the Public Utilities Commission.

* * * * * * [*105*]

52. The terms and conditions of the Commission's orders hereinbefore referred to and the requirements thereby prescribed may be noticed by the Commission and by any court on any review of the above entitled proceeding, as though set forth herein.

* * * * * * [*111*]

54. Annexed hereto are true photostatic copies of the following described documents which are hereby incorporated in evidence:

[*112*] Agreement dated March 31, 1930, between The Connecticut Light and Power Company and the Borough of Groton.

Agreement dated June 5, 1935, between The Connecticut Light and Power Company and the Borough of Groton, said agreement amending the agreement of March 31, 1930.

Memorandum of agreement dated November 15, 1935 between

the Borough of Groton and The Connecticut Light and Power Company.

Agreement dated June 15, 1935 between the Borough of Groton and the Fishers Island Farms, Inc.

Letter dated August 1, 1939 from The Connecticut Light and Power Company to Mr. A. N. Tiffany, Jr., Superintendent of Water and Electric Department of the Borough of Groton.

Letter dated August 2, 1939 to H. D. Larrabee, Manager of The Connecticut Light and Power Company from A. N. Tiffany, Jr., Superintendent of Water and Electric Department of the Borough of Groton.

Letter dated September 27, 1939 from The Connecticut Light and Power Company to the Board of Utility Commissioners of the Borough of Groton giving notice of intent to cancel agreement of March 31, 1930, effective September 29, 1940.

Letter dated June 14, 1940 from The Connecticut Light and Power Company to Mr. A. N. Tiffany, Jr., Superintendent of the Water and Electric Department of the Borough of Groton.

Letter dated December 15, 1939 from the Water and Electric Department of the Borough of Groton to Mr. Henry L. Ferguson of Fishers Is. ! Farms, Inc.

Letter dated December 16, 1939 from Fishers Island Farms, Inc. to Mr. A. N. Tiffany, Jr., Superintendent of the Water and Electric Department, Borough of Groton.

Letter dated June 4, 1940 from Mr. A. N. Tiffany, Jr., Superintendent of the Water and Electric Department, Borough of Groton to Mr. H. L. Ferguson, President of Fishers Island Farms, Inc.

Letter dated June 6, 1940 from Fishers Island Farms, Inc. to Mr. A. N. Tiffany, Jr., Superintendent of Water and Electric Department, Borough of Groton.

Letter dated October 17, 1940 from Mr. A. N. Tiffany, Jr., Superintendent of Water and Electric Department, Borough of Groton to Leon M. Fuquay, Secretary of the Federal Power Commission.

The Respondent in making this stipulation reserves the right

to contest on any constitutional or any other ground whatever the validity, scope and applicability to it of any or all of the rules, regulations or orders promulgated or adopted by the Commission [*113*] and purported to be made under the authority granted it by the Federal Power Act. By making this stipulation the Respondent does not admit the jurisdiction of the Commission over it or the jurisdiction or the power of the Commission to hold the hearing instituted by the order to show cause in the above-entitled matter.

[Signatures of counsel omitted.]

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* * * * * * [*234*]

THIS AGREEMENT made this 31st day of March, 1930, by and between The Connecticut Light & Power Company, Incorporated under the laws of the State of Connecticut, hereinafter called The Power Company and The Borough of Groton, Connecticut, acting by and through its Board of Water Commissioners, duly authorized thereto (hereinafter called The Consumer) for themselves, their successors and assigns—

WITNESSETH:

That for and in consideration of One Dollar and other good and valuable considerations paid by each to the other, receipt of which is hereby acknowledged, the parties hereto do hereby agree each with the other as follows:

That the Power Company shall deliver to The Consumer and the Consumer shall receive and pay to the Power Company for electrical energy under the following terms and conditions:

1. *Term:* This agreement shall become effective April 1st, 1930, and shall remain in full force and effect until April 1st, 1940, unless sooner terminated by consent of both parties hereto. After April 1st, 1940, this agreement shall continue in full force and effect until terminated by either party upon one year's prior written notice to the other party. This agreement replaces agreement dated October 30th, 1918, be-

tween the Shore Line Electric Railway Company and the Borough of Groton; also one dated May 11th, 1922, between The Eastern Connecticut Power Company and the Borough of Groton, which agreements are cancelled by mutual consent.

2. *Lines and Equipment:* The Power Company shall deliver the electrical energy herein contemplated at its substation located near Trail's Corner in the Town of Groton, at Groton Long Point in the Town of Groton and at such other points as may be mutually agreed upon.

The Power Company shall provide and maintain the lines, meters, transformers, switches and other sub-station equipment necessary for said delivery and measuring of electrical energy.

[235] 3. *Delivery and Metering:* The delivery points shall be: the low tension terminals of transformers now installed, or of other transformers in substitution therefor, at the above mentioned substation of the Power Company at Trail's Corner in the Town of Groton; the end of its existing 33,000 volt transmission line at Groton Long Point and such other points as may be mutually agreed upon.

Energy shall be metered on the high tension side of the transformers at each point of delivery.

Energy shall be three phase sixty cycle at a nominal potential of 33,000 volts, or such other voltage, at the metering point, as may be agreed upon. Except under abnormal conditions shall frequency vary more than one cycle above or below sixty cycles per second, nor shall potential vary beyond the limits of commercial feeder regulators, available at the date of this agreement.

All meters and equipment used for the purposes of this agreement shall be accessible at all reasonable times to both parties for inspection and reading; provided, however, that meter seals shall not be broken except in the presence of representatives of both parties unless the party not represented shall have consented thereto.

Any meter found to be not more than two per cent above or below correct registration or indication shall be considered as correct as to bills previously rendered, but shall after test be adjusted to as near correct performance as is commercially possible. Should the error be found greater than two per cent but less than ten per cent a correction shall be made to effect the inaccuracy found, provided that such correction shall not cover a period greater than thirty days previous to the date of making the test at which such inaccuracy is found. Should such error be found to be greater than ten per cent, adjustment shall be made by agreement by the parties hereto or by arbitration. Meters shall be regularly tested at periods not exceeding twelve months, but special tests may be made at [*236*] any time upon request of either party provided that both parties are represented at such special tests. Tests which do not require meter seals to be broken may be made at any time by either party and the cost thereof shall be borne by the party making such test. The cost of all other tests both regular and special shall be borne by the Power Company except when on special tests the meter and equipment shall be found to be more than two per cent slow, the cost of the test in such case shall be borne by the Consumer.

4. *Service:* The Power Company agrees to deliver such energy as may be required by the Consumer at Trail's Corner up to 1500 KVA without notice and 500 KVA at Groton Long Point. The amount of energy may be increased upon request of the Consumer after notice of sufficient length to allow the Power Company a reasonable time in which to provide the necessary new or additional equipment: provided that the Power Company shall be reimbursed by the Consumer for expenditures which, by request of the Consumer, it (the Power Company) may have been called upon to make within two years previous to any termination of this agreement.

5. *Price and Payment:* The service rendered and energy supplied under this agreement by the Power Company shall be charged to and paid by the Consumer as follows:

The total charges shall consist of an investment charge, plus a demand charge, plus an energy charge. The monthly investment charge shall be 1/12 (one twelfth) of 11% of the actual investment in substation equipment and lines furnished to supply the Consumer. The Consumer may purchase at its original cost the substation equipment at any time during the term of this agreement, and thereafter be relieved of paying the investment charge.

The Demand Charge shall be $1.50 per month per KW of 30 minute maximum demand.

The Demand Charge shall be based upon a demand of not less [237] than 75% of the maximum of any of the preceding eleven months, but in no case shall it be taken at less than 500 KW. The Demand shall be taken as the sum of the monthly demand readings at the individual substations.

The Energy Charge shall be—

9 mills for each of the first 100,000 KWH taken in the month
8 " " " " " next 100,000 " " " " "
7 1/2 mills for each KWH in excess of 200,000 KWH taken in the month. The Energy Charge is based upon a cost of coal or equivalent fuel of $4.00 per gross ton, as unloaded from cars or barges at the steam power plant of the Power Company at Montville, Connecticut. The Energy Charge shall be increased at the rate of one mill per KWH per dollar by which the actual cost of said fuel exceeds said $4.00 per gross ton.

The Minimum bill in any month shall be the investment charge plus the minimum demand charge.

Bills covering the above charges for each month shall be rendered on or about the tenth day of the following month, and shall be paid within fifteen days after date of rendering.

6. *Power Factor:* It is contemplated that the Power Factor of the load of the Consumer shall not be less than seventy-five per cent, and all reasonable effort shall be made by the Consumer to maintain such power factor.

The Consumer shall so maintain its system of transmission and distribution that there shall be not more than ten per cent differ-

ence in current values between any two phases on the supply circuits.

7. *Suspension of Service:* If, at any time during the term of this agreement, by reason of strikes, accidents, fire, act of God, action of the elements, or by reason of any cause or condition beyond the control of either party affecting its plants, lines, equipment or sources of fuel supply, or by reason of any act of the civil legal or military authorities [*238*] the Power Company partially or wholly is unable to deliver, and the Consumer unable to receive the energy herein referred to, the obligation to deliver and/or receive such energy shall be suspended to the extent of the interruption; but the respective obligations of the parties shall revive and become operative as soon as the cause of the interruption is removed and the effects thereof remedied.

In case of any failure of the Power Company lasting for more than ten consecutive minutes, and due to reasons other than those above mentioned, to deliver the energy herein agreed upon or any part thereof, the Power Company shall compensate the Consumer for such failure by a pro rata reduction in the demand charge for the month in which such failure occurs, said reduction being such portion of said demand charge as the duration of the interruption bears to the total number of hours in the month in which it occurs.

The Power Company shall exercise all reasonable care and diligence to prevent interruptions from any causes, and to restore service after all interruptions, but the Power Company does not guarantee uninterrupted service nor shall it be liable to the Consumer or otherwise for any loss, cost or damage resulting directly or indirectly from interruptions to service.

8. *Maintenance of Equipment:* The parties hereto agree to maintain their respective lines and equipment necessary to carry out the provisions of this contract in such condition as to properly render the service hereby contracted for.

9. *Arbitration:* In case any dispute arises as to the interpretation of this agreement or any portion thereof, or as to the adjust-

ment of any claim or settlement in connection therewith, the question shall be submitted to arbitration. In such case the party aggrieved or moving in the matter shall give to the other party written notice of its desire to have an arbitration in which it shall state generally its grievance or the question to be decided and name an arbitrator. The other party thereupon [239] shall name an arbitrator within thirty days after receipt of said notice and in case of failure to do so the moving party shall appoint a second arbitrator. The two then appointed (in either manner) shall select a third and the Board of Arbitrators thus constituted shall thereupon proceed and determine the matter in dispute and the decision of any two of the arbitrators (including the disposition of the cost of arbitration) shall be final and conclusive upon the parties as to all questions of fact involved in such arbitration.

10. *General Provisions:* This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF The Connecticut Light & Power Company and The Borough of Groton have caused their respective corporate seals to be hereto affixed and this contract to be signed in their names and behalf, by their respective officers hereunto duly authorized the day and year first above written.

THE CONNECTICUT LIGHT & POWER COMPANY
Eastern Division.

Witness: By R. W. Perkins, Vice-President.
A. V. S. Lindsley
H. D. Larrabee

THE BOROUGH OF GROTON

By James A. Ward
James P. Gillogly
Charles E. White
Board of Water Commissioners
of the Borough of Groton

A. N. Tiffany, Jr.
A. N. Tiffany, Jr.

[*240*] THIS AGREEMENT made this 5th day of June, 1935, by and between The Connecticut Light and Power Company and The Borough of Groton, acting by and through its Board of Utility Commissioners (formerly Board of Water Commissioners)—

WITNESSETH:

That for good and valuable considerations, it is mutually agreed between the parties hereto—

That the fourth paragraph of Section 5 of the agreement of March 31st, 1930, between the same parties which provides

> "The Demand Charge shall be based upon a demand of not less than 75% of the maximum of any of the preceding eleven months, but in no case shall it be taken at less than 500 KW. The Demand shall be taken as the sum of the monthly demand readings at the individual substations"

is hereby stricken out, and that there be hereby substituted therefor the following:

> "The Demand Charge for any month shall be based upon the demand of that month provided, however, that it shall not be less than 80% of the maximum of any of the preceding eleven months, excluding the months of July, August and September nor less than 500 KW. The Demand shall be taken as the sum of the monthly demand readings at each delivery point."

That all other terms and conditions of said agreement of March 31st, 1930, remain unchanged, and

That said substituted fourth paragraph of Section 5 shall become effective with the billing for service rendered during the month of May, 1935, and shall continue in force as an integral part of said agreement of March 31st, 1930.

IN WITNESS WHEREOF The Connecticut Light and Power Company and The Borough of Groton have caused this agreement to be signed in [*241*] their names and behalf by their respec-

tive officers hereunto duly authorized the day and year first above written.

THE CONNECTICUT LIGHT & POWER COMPANY
Eastern Division

Witness: By R. W. Perkins, Vice-President.
Eleanor Keefe
H. D. Larrabee

THE BOROUGH OF GROTON
By J. A. Ward
Charles E. White
F. C. Sweet
Henry Gamber
Board of Utility Commissioners of the
Borough of Groton.

Witness:
A. N. Tiffany, Jr.
B. L. Colby

[*242*] MEMORANDUM OF AGREEMENT.

As provided in the existing power contract between The Borough of Groton and The Connecticut Light & Power Company, the Borough is exercising its right to purchase from the Power Company, the Groton Long Point substation equipment, and the land upon which it is located, at a mutually agreed price of $5363.28.

Under the existing power contract, the Borough is paying an investment charge at the rate of 11% per annum on a total investment of $30,210.12, which includes the above mentioned $5363.28 as the investment at Groton Long Point substation. The Borough shall continue to pay the full amount of the investment charge, but the Power Company shall apply against the agreed purchase price of $5363.28—11% of that sum per annum as bills are paid by the Borough until the full amount of $5363.28 has been thus liquidated. This shall be done monthly at the rate of $49.16 starting from November 15th, 1935.

The existing power contract remains in full force and effect to April 1st, 1940, and continues thereafter until terminated by one year's notice from either party to the other. Should this contract be cancelled on April 1st, 1940, or at any time prior to the complete liquidation of $5363.28 as above, then, from the date of such cancellation the Borough shall continue to pay to the Power Company the above $49.16 per month until the full amount is liquidated.

In consideration of deferred maintenance of the existing Groton Long Point substation, the Power Company will, at its own cost and expense, [243] erect, in substitution therefore, another substation structure, with suitable equipment of the same capacity and type of construction upon a different plot of land to be secured for the purpose by The Connecticut Light & Power Company at a location mutually satisfactory to the Borough and the Power Company.

The terms of this agreement shall apply to the substitute substation; and any additional cost for said different plot of land shall be treated as an addition to the before-mentioned agreed purchase price, of $5363.28 under the terms of this agreement.

Agreed to and accepted this 15th day of November, 1935.

THE CONNECTICUT LIGHT & POWER COMPANY
Eastern Division

Witness: By R. W. Perkins, Vice-President.
William B. Mitchell
M. Caryl

THE BOROUGH OF GROTON

By Henry Gamber
James A. Ward
Charles E. White
F. C. Sweet
Board of Utility Commissioners of the
Borough of Groton.

Witness: Borough of Groton.
Mary M. Dray
A. N. Tiffany, Jr.

[244] THIS AGREEMENT made this 15th day of June, 1935, by and between The Borough of Groton acting by and through its Board of Utility Commissioners, duly authorized thereto, hereinafter called The Power Company and The Fishers Island Farms, Incorporated under the laws of the State of New York (hereinafter called the Consumer) for themselves, their successors and assigns—

WITNESSETH:

That for and in consideration of One Dollar and other good and valuable considerations paid by each to the other, receipt of which is hereby acknowledged, the parties hereto do hereby agree each with the other as follows:

That the Power Company shall deliver to The Consumer and the Consumer shall receive and pay to the Power Company for electrical energy under the following terms and conditions:

1. Term: This agreement shall become effective June 15th '35 and shall remain in full force and effect until June 15th 1936, unless sooner terminated by consent of both parties hereto. After this agreement shall continue in full force and effect until terminated by either party upon six months' prior written notice to the other party. This agreement replaces agreement dated March 1st, 1929, between the Borough of Groton and the Fishers Island Farms, Inc., which agreement is cancelled by mutual consent.

2. *Lines and Equipment:* The Power Company shall deliver the electrical energy herein contemplated at its substation located at the Power Company's sub station at Groton Long Point in the Town of Groton and at such other points as may be mutually agreed upon.

The Power Company shall provide and maintain the lines, meters, transformers, switches and other sub station equipment

necessary [*245*] for said delivery and measuring of electrical energy.

3. *Delivery and Metering:* The delivery points shall be: the low tension terminals of transformers now installed, or of other transformers in substitution therefor, at the above mentioned substation of the Power Company at Groton Long Point in the Town of Groton: the end of its existing 6600 volt transmission line at Groton Long Point and such other points as may be mutually agreed upon.

Energy shall be metered at 6600 volts.

Energy shall be three phase sixty cycle at a nominal potential of 6600 volts, or such other voltage, at the metering point, as may be agreed upon. Except under abnormal conditions shall frequency vary more than one cycle above or below sixty cycles per second, nor shall potential vary beyond the limits of commercial feeder regulators, available at the date of this agreement.

All meters and equipment used for the purposes of this agreement shall be accessible at all reasonable times to both parties for inspection and reading; provided, however, that meter seals shall not be broken except in the presence of representatives of both parties unless the party not represented shall have consented thereto.

Watt hour meters shall be adjusted to register within the limits as prescribed by the New York Public Service Commission. Meters shall be regularly tested at periods not exceeding twelve months, but special tests may be made at any time upon request of either party provided that both parties are represented at such special tests. Tests which do not require meter seals to be broken may be made at any time by either party and the cost thereof shall be borne by the party making such test. The cost of all other tests both regular and special shall be borne by the Power Company except when on special tests the meter and equipment shall [*246*] be found to be more than two percent slow, the cost of the test in such case shall be borne by the Consumer.

4. *Service:* The Power Company agrees to deliver such energy as may be required by the Consumer at Groton Long Point up to 1000 KVA without notice at Groton Long Point. The amount of energy may be increased upon request of the Consumer after notice of sufficient length to allow the Power Company a reasonable time in which to provide the necessary new or additional equipment; provided that the Power Company shall be reimbursed by the Consumer for expenditures which, by request of the Consumer, it (the Power Company) may have been called upon to make within two years previous to any termination of this agreement.

5. *Price and Payment:* The service rendered and energy supplied under this agreement by the Power Company shall be charged to and paid by the Consumer as follows:

The total charges shall consist of a demand charge, plus an energy charge.

The Demand Charge shall be $1.75 per month per KW of 30 minute maximum demand.

The Demand Charge for any month shall be based upon the Demand of that month provided, however, that it shall not be less than 80% of the maximum of any of the preceding eleven months, excluding the months of July, August and September nor less than 125 KW. The Demand shall be taken as the sum of the monthly demand readings at each delivery point.

The Energy Charge shall be—

11 mills for each of the first 100,000 KWH taken in the month.
10 " " " " " next 100,000 " " " " "
9½ " " " KWH in excess of 200,000 KWH taken in the [247] month. The Energy Charge is based upon a cost of coal or equivalent fuel of $4.00 per gross ton, as unloaded from cars or barges at the steam power plant of the Connecticut Light and Power Company of Montville, Connecticut. The Energy Charge shall be increased at the rate of one mill per KWH per dollar, or fraction thereof, by which the actual cost of said fuel exceeds said $4.00, or fraction thereof, per gross ton.

The minimum bill in any month shall be the minimum demand charge.

Meters shall be read on the fifteenth day of each month and bills covering the above charges for each month shall be rendered on or about the fifteenth day of each month, and shall be paid within twenty days after date of rendering.

6. *Power Factor:* It is contemplated that the Power Factor of the load of the Consumer shall not be less than seventy-five per-cent, and all reasonable effort shall be made by the Consumer to maintain such power factor.

The Consumer shall so maintain its system of transmission and distribution that there shall be not more than ten percent difference in current values between any two phases on the supply circuits.

7. *Suspension of Service:* If, at any time during the term of this agreement, by reason of strikes, accidents, fire, act of God, action of the elements, or by reason of any cause or condition beyond the control of either party affecting its plants, lines, equipment or sources of fuel supply, or by reason of any act of the civil legal or military authorities the Power Company partially or wholly is unable to deliver, and the Consumer unable to receive the energy herein referred to, the obligation to deliver and/or receive such energy shall be suspended to the extent of the in- [*248*] terruption; but the respective obligations of the parties shall revive and become operative as soon as the cause of the interruption is removed and the effects thereof remedied.

The Power Company shall exercise all reasonable care and diligence to prevent interruptions from any causes, and to restore service after all interruptions, but the Power Company does not guarantee uninterrupted service nor shall it be liable to the Consumer or otherwise for any loss, cost or damage resulting directly or indirectly from interruption to service.

8. *Maintenance of Equipment:* The parties hereto agree to maintain their respective lines and equipment necessary to carry

out the provisions of this contract in such condition as to properly render the service hereby contracted for.

9. *Arbitration:* In case any dispute arises as to the interpretation of this agreement or any portion thereof, or as to the adjustment of any claim or settlement in connection therewith, the question shall be submitted to arbitration. In such case the party aggrieved or moving in the matter shall give to the other party written notice of its desire to have an arbitration in which it shall state generally its grievance or the question to be decided and name an arbitrator. The other party thereupon shall name an arbitrator within thirty days after receipt of said notice and in case of failure to do so the moving party shall appoint a second arbitrator. The two then appointed (in either manner) shall select a third and the Board of Arbitrators thus constituted shall thereupon proceed and determine the matter in dispute and the decision of any two of the arbitrators (including the disposition of the cost of arbitration) shall be final and conclusive upon the parties as to all questions of fact involved in such arbitration.

[249] 10. *General Provisions:* This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the Borough of Groton and the Fishers Island Farms, Inc. have caused their respective corporate seals to be hereto affixed and this contract to be signed in their names and behalf, by their respective officers hereunto duly authorized the day and year first above written.

THE BOROUGH OF GROTON UTILITY COMMISSIONERS

By J. A. Ward
Charles E. White
F. C. Sweet
Henry Gamber

Witness
B. L. Colby
A. N. Tiffany, Jr.

THE FISHERS ISLAND FARMS, INC.
By Henry L. Ferguson, Pres.
R. C. Franklin, Asst. Treas.

Florence Boush
Helen E. Best

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THE CONNECTICUT LIGHT & POWER CO.
250 Freight Street

Waterbury Connecticut September 27, 1939

Board of Utility Commissioners of the Borough of Groton Groton Connecticut

Gentlemen:

Pursuant to the agreements of March 31, 1930 and June 5, 1935 between the Borough of Groton and The Connecticut Light and Power Company, we hereby serve notice in accordance with the terms of the agreement of March 31, 1930 of our desire to cancel both of said contracts, effective September 29, 1940.

Yours very truly,

A. V. S. LINDSLEY
Vice President

AVSL/ek

Acknowledged 9-29-39

No. 5 [253]

THE CONNECTICUT LIGHT & POWER CO.
250 Freight Street
A. V. S. Lindsley Vice President

Waterbury Connecticut June 14, 1940

Mr. A. N. Tiffany, Superintendent Water and Electric Department
Groton, Connecticut

Dear Mr. Tiffany:

This will confirm the conversation which I had with you and Mr. Henry Gamber, Treasurer of the Board, relative to a contract for the supply of electric power to the Borough, to replace the

contract expiring September 29, 1940. When the Borough is in a position to contract for a supply of electric power for resale and ultimate use entirely within the chartered territory of the Borough of Groton, we will be glad to enter into a new agreement to furnish the electrical requirements of the Borough under the conditions which we discussed and considered mutually agreeable on June 11, 1940. They are substantially as follows:

Delivery and Metering Point

Service to be delivered and metered at the 33,000 volt terminals of the company's transmission line at the Borough's Trails Corners substation. The Borough to furnish and maintain all receiving transforming, protective, regulating and distributing facilities required to receive and utilize the service.

Rate

The rate to be the sum of the following transmission, demand and energy charges—

Transmission line charge—$350 per month

Demand charge—$1.75 per kilowatt per month

Energy charge—6 mills per kilowatthour, subject to coal adjustment of seven ten-thousandths of a cent ($.0007) per kilowatthour for each one cent increase above $5.25 or decrease below $4.75 per net ton.

Determination of Demand

The demand billed to be the highest average fifteen-minute load in kilowatts (adjusted for power factor) in each month, but not less than the highest billing demand of the preceding eleven months. The power factor to be maintained by the Borough as nearly [*254*] as possible at not less than 90% lagging. Billing demand to be increased one percent for each one percent the power factor is less than 80% lagging, during periods of load exceeding 50% of the demand of the month.

Protective Clause

In consideration of the uncertainty of future costs, the Company shall have the right to revise the rate from time to time. If such revision results in a lower price it shall become effective upon notification to the Borough. If such revision results in a higher price it shall become effective sixty days after written notice is given of the Company's intention to make such revision, provided, however, that in such event the Borough shall have the right to cancel the agreement.

The other terms and conditions will be the usual and so-called standard clauses concerning payment, meter accuracy, etc., common to most contracts, and I presume substantially like those contained in the contract expiring September 29, 1940.

Such an agreement would contemplate that the Borough furnish the necessary substation equipment, transformers and distributing facilities, some of which now in use are owned by this company. If the Borough should desire to take over any or a part of the Company's equipment beyond the delivery and metering point specified, we will be very glad to make you an attractive offer on this equipment.

About a year ago we made, at your request, plans for a new substation structure for you at Trails Corners and estimates, which included the use of some steel structures which we had available from another substation. That equipment has now been used for other purposes.

If you desire, our engineers will be glad to go over the matter again with you and recommend plans and make estimates for such substation equipment as you may desire.

Should you wish to take over the 3 three phase transformers at Trails Corners, totaling 2,000 kva capacity, we would be willing to let you have these for the depreciated price of $6,500.

Should you be able to use the high tension line from Trails Corners to Groton Long Point by cutting off the base of the poles

and lowering the line, we will be willing to sell you this line at the prevailing price for the copper conductors at that time.

Should you desire at this time to take over any of this equipment which we own, and upon which you are paying an investment charge, we will be glad to make such adjustments in the present price as would properly reflect the change in the ownership of the equipment.

Yours very truly,

A. V. S. LINDSLEY

AVSL/ek Vice President

[*255*] [SEAL of Borough of Groton]

BOROUGH OF GROTON CONNECTICUT

Water and Electric Department
A. N. Tiffany, Superintendent

December 15, 1939

Mr. Henry L. Ferguson Fishers Island Farms, Inc. Fishers Island, New York

Dear Mr. Ferguson:

We are enclosing copy of a letter received from the Connecticut Light & Power Company; we believe the contents are self-explanatory.

We have since conferred with officials of the Connecticut Light & Power Company to obtain reasons why our contract cannot be continued or another written; they maintain that in these particular uncertain times they do not see their way clear to enter upon long term agreements.

Our Board of Utility Commissioners, of course, must abide by their decisions and it was made plain to us that to continue contracts similar to our present one would not be fair to all concerned.

The present contract of the Connecticut Light & Power Company with us will remain in force until September 29, 1940 but during the time ensuing it is believed that another type of contract may be promulgated for our future requirements; this contract, we

are led to believe, will not differ materially from the one we now have.

We also are led to believe that another contract will be of the type which will be protective to all concerned and will depend, to a marked degree, on labor costs, value of currency and/or other unforeseen factors.

We find it will be necessary for us to cancel our contract with the Fishers Island Farms, Inc., due to the above mentioned reasons, on September 20, 1940. We shall continue to supply service to you after said date on the same basis as we are able to obtain power from the Connecticut Light & Power Company.

[256] The Connecticut Light & Power Company has also advised us that ample time will be given (probably 90 days) before any rate changes are in effect after September 29, 1940.

If we have not made ourselves clear in this matter, we would be pleased to discuss it with you further at your convenience.

We have greatly appreciated the business given to us by you and shall do all in our efforts to continue the very pleasant relations we have had in the past.

Respectfully yours,

BOARD OF UTILITY COMMISSIONERS
by A. N. Tiffany—Supt.
Borough of Groton Utilities.

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[257] FISHERS ISLAND FARMS, INC.

Fishers Island, N. Y. December 16th, 1939

Mr. A. N. Tiffany, Superintendent, Borough of Groton Utilities, Groton, Conn.

Dear Mr. Tiffany:

I wish to thank you for your letter of December 15th with notice that our present contract with you will terminate on September 20th, 1940. I understand also that a new form of contract will be entered into between the Connecticut Light & Power Co. and the Borough of Groton.

I hope that you will bear in mind that the cost of electricity to us is high at the present time and in order for us to continue supplying electricity to the residents of Fishers Island we can not have the rates any higher. As a matter of fact I was about to write you to see if you could not reduce the rates in some way as we are continually receiving complaints on account of the electric charges.

Very truly yours,

FISHERS ISLAND FARMS, INC.

HLF—JGM H. L. Ferguson, Pres.

[*258*] [SEAL of Borough of Groton]

BOROUGH OF GROTON CONNECTICUT

Water and Electric Department
A. N. Tiffany, Superintendent

June 4, 1940

Mr. H. L. Ferguson, President Fishers Island Farms, Inc. Fishers Island, New York

Dear Mr. Ferguson:

In further reference to our letter of December 15, 1939 regarding cancellation of power contract with you, and also bearing in mind your acknowledgment dated the following day, we further wish to advise that due to the fact that our penalty incurred for selling interstate power (this being without charter provision) is that the Connecticut Light and Power Company will not enter upon any kind of agreement with our Department for power purchase, as long as we are interstate connected, the following vote was taken by the Board of Utility Commissioners at their regular meeting of May 29, 1940:

"Voted: That the Superintendent be instructed to notify Fishers Island Farms, Incorporated, that because of charter limitations it has become impossible for the Borough of Groton to renew its contract with the Connecticut Light and Power Company while the

Borough is supplying current to Fishers Island Farms, Incorporated."

Due to the afore-mentioned conditions, the Borough of Groton wishes to advise you that you must be prepared to obtain other means of power supply before June 15th, 1941.

We wish to assure you, at this time, that business relations with your corporation have been very satisfactory, and that it is with regret that we request you to sever connection from our service.

Very truly yours,

BOROUGH OF GROTON UTILITIES

A. N. Tiffany, Superintendent.

[*259*] FISHERS ISLAND FARMS, INC.

Fishers Island, N. Y. June 6th, 1940

Mr. A. N. Tiffany, Supt., Borough of Groton Utilities, Groton, Conn.

Dear Mr. Tiffany:

This is to acknowledge receipt of your letter of June 4th. We note that your company advises that we will be unable to secure power from you after June 15th, 1941.

Very truly yours,

FISHERS ISLAND FARMS, INC.

HLF—JGM H. L. Ferguson, Pres.

[*260*] [SEAL of Borough of Groton]

BOROUGH OF GROTON CONNECTICUT

Water and Electric Department

A. N. Tiffany, Superintendent

October 17, 1940

Mr. Leon M. Fuquay, Secretary Federal Power Commission Washington, D. C.

Dear Sir:

We are inclosing the correspondence and contracts as requested in your letter of October 12, 1940, and we respectfully request that

after you have procured the necessary information, the original contracts and correspondence be returned to us.

Some of the items are not at present available, and I believe that if the information which we are forwarding is not sufficiently detailed, we shall have to continue by correspondence. A considerable part of the negotiations have been verbal by representatives of The Connecticut Light and Power Company and the Borough of Groton Water and Electric Department, through its Treasurer, Mr. Henry Gamber, and Commissioner James A. Ward and its Superintendent, and, of course, we have no written records of these discussions.

In 1919 a ten-year contract was entered upon by the Borough of Groton Water and Electric Department and The Eastern Connecticut Power Company (now known as The Connecticut Light and Power Company) on a flat rate based upon a kilowatthour charge, plus the additional coal adjustment charge and percentage charge.

During negotiations of the renewal of the aforementioned contract in 1930 (copy inclosed), we were led to believe that provided our purchases were five million kilowatthours per year, we would be entitled to a purchase rate revision.

In the latter part of 1938, this Department started corresponding in an effort to obtain information regarding revision of rate which would become effective at the time of expiration of the 1930 contract, but to date we have been unable to conclude any new contract. In fact, at this writing we are purchasing electric energy without contract.

[*261*] We have been advised that due to the fact that we are selling power to Fishers Island Farms, Incorporated, State of New York, that no contract will be negotiated until we discontinue furnishing power to the Fishers Island corporation.

The Fishers Island Farms, Incorporated are now preparing to supply their own power as of June 15, 1941.

We are at present endeavoring to negotiate a contract for power required by the National Defense Act, specifically the

Electric Boat Company, Groton, Connecticut, and there appear to be other Defense Activities in this vicinity, which in all probability will require electric energy from our Department, but due to the fact that we have no purchase contract we are unable to quote a resale rate on contract.

It is the desire of this municipal corporation to supply energy to customers within our chartered territorial rights, and we earnestly hope that we may obtain some definite contract so that we may be able to submit to these prospective customers a definite purchase rate.

Respectfully yours,

BOROUGH OF GROTON UTILITIES

A. N. Tiffany Superintendent.